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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	<i>Page</i>
<i>Conflict of Interest Code—Notice File No. Z03-0722-02</i>	1139
STATE AGENCIES: Board of Prison Terms/Public Utilities Commission	
TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	
<i>Governmental Decision: Segmentation—Notice File No. Z03-0722-08</i>	1139
TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	
<i>Technical Cleanup—Notice File No. Z03-0722-09</i>	1141
TITLE 2. STATE LANDS COMMISSION	
<i>Marine Terminal Engineering and Maintenance—Notice File No. Z03-0716-01</i>	1143
TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD	
<i>Illumination for Nighttime Highway Construction Projects—Notice File No. Z03-0718-03</i>	1146
TITLE 10. DEPARTMENT OF INSURANCE	
<i>Residential Property Insurance Rating and Underwriting—Notice File No. Z03-0722-18</i>	1151
TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION	
<i>Hardwood Retention—2003—Notice File No. Z03-0722-16</i>	1157
TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION	
<i>Road Management Plan 2003—Notice File No. Z03-0722-17</i>	1160
TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION	
<i>Variable Retention—2003—Notice File No. Z03-0722-15</i>	1164
TITLE 22. DEPARTMENT OF CHILD SUPPORT SERVICES	
<i>Review and Adjustment of Child Support Orders—Notice File No. Z03-0710-01</i>	1167
TITLE 22. DEPARTMENT OF SOCIAL SERVICES	
<i>Foster Youth Personal Rights—Notice File No. Z03-0722-05</i>	1169

(Continued on next page)

*Time-
Dated
Material*

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY	
<i>EMS System Evaluation and Quality Improvement—Notice File No. Z03-0722-12</i>	1171
TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY	
<i>EMT-I Regulation Revisions—Notice File No. Z03-0722-10</i>	1173
TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY	
<i>Paramedic Regulations and EMS Continuing Education Regulations—Notice File No. Z03-0722-11</i>	1175
TITLE 24. BUILDING STANDARDS COMMISSION	
<i>Seismic Updates to Structural Provisions—Notice File No. Z03-0722-13</i>	1178
TITLE 24. OFFICE OF THE STATE FIRE MARSHAL	
<i>Bedridden Clients in Residential Care Facilities—Notice File No. Z03-0722-01</i>	1180
TITLE MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>ABAWD, Food Stamp Voluntary Quit FSET—Notice File No. Z03-0722-03</i>	1186
TITLE MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>CalWORKs/Food Stamps Intercept Program—Notice File No. Z03-0722-06</i>	1189
TITLE MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>Family Reunification Child Support Referral Requirements—Notice File No. Z03-0722-04</i>	1190
TITLE MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>Foster Care Rates Triennial Financial Audits—Notice File No. Z03-0722-07</i>	1192

GENERAL PUBLIC INTEREST

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING	
<i>List of Contractors Ineligible to Enter Into State Contracts</i>	1194
DEPARTMENT OF HEALTH SERVICES	
<i>Long Term Care Reimbursement Methodology</i>	1194
DEPARTMENT OF HEALTH SERVICES	
<i>Long Term Care Reimbursement Rate</i>	1195
DEPARTMENT OF HEALTH SERVICES	
<i>Removal of Discretionary Language of Add-Ons</i>	1195
DEPARTMENT OF TOXIC SUBSTANCES CONTROL	
<i>Final Decision to Re-Certify Hazardous Waste Environmental Technology</i>	1196
(Continued on next page)	

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

<i>Proposed Acrylamide Work Plan</i>	1198
--	------

RULEMAKING PETITION DECISIONS

BOARD OF PRISON TERMS

<i>Regarding Petitioner Gary Eccher</i>	1200
---	------

BOARD OF PRISON TERMS

<i>Regarding Petitioner Miguel Martin</i>	1201
---	------

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State.....	1202
--	------

Sections Filed, March 19, 2003 to July 23, 2003	1205
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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the amended conflict of interest codes of the following agencies:

CONFLICT OF INTEREST CODE

AMENDMENT

STATE AGENCIES:

Board of Prison Terms

Public Utilities Commission

A written comment period has been established commencing on **August 1, 2003**, and closing on **September 15, 2003**. Written comments should be directed to Adrienne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed amendment to the conflict of interest code will be submitted to the Commission's Executive Director for review, unless any interested person, or his or her duly authorized representative, requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed amendment will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced amendment to the conflict of interest code, proposed pursuant to Government Code section 87300, which designates, pursuant to Government Code section 87302, employees who must disclose certain investments, interests in real property, and income.

The Executive Director or the Commission, upon his or her own motion or at the interest of any interested person, will approve, or revise and approve, or return the amendment to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments, or comments, in writing to the Executive Director of the Commission, relative to review of the proposed amendment to the conflict of interest code. Any written comments must be received no later than September 15, 2003. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses, or small businesses.

AUTHORITY

Government Code sections 82011, 87303, and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest code shall approve codes as submitted, revise the proposed code, and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Adrienne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public

hearing on or after September 4, 2003, at 9:30 a.m. Written comments must be received at the Commission offices no later than noon on September 3, 2003.

BACKGROUND/OVERVIEW

Pursuant to Commission staff advice, where an official has a financial interest in a particular decision, the official is not prohibited from participating in other related decisions in which he or she does not have a financial interest, provided the Commission's "segmentation process" is followed.

Proposed regulation 18709 codifies staff advice explaining this process which can be applied to a series of related decisions regardless of the subject area of the decisions. The Commission considered similar language embodied in proposed regulation 18702.6 at its June 2003 meeting. The numbering of the proposed regulation 18702.6 was subsequently renumbered as regulation 18709 to conform to the Commission's existing eight-step conflict-of-interest analysis. This placement is appropriate since an official will ordinarily turn to segmentation *after* he or she has determined that it is reasonably foreseeable that a material financial effect will result from the decision and that no exceptions apply, determinations made after Step Seven. Several options for subdivision (b) relating to the definition of the term "inextricably interrelated" are presented.

REGULATORY ACTION

Add 2 Cal. Code Regs. § 18709: The Commission may consider adoption of language codifying conditions required in order for the "segmentation process" to apply. Issues to be considered may include:

- Whether an agency may segregate a decision in which a public official has a financial interest, to allow participation by the official in other related decisions, provided certain conditions apply;
- What should the requirements for segmentation be? The Commission will consider how the decision in which the official has a financial interest is segregated from the other decisions;
- Whether the decision in which the official has a financial interest must be considered first and a final decision reached by the agency without the disqualified official's participation;
- A requirement that once the decision in which the official has a financial interest has been made, the disqualified public official's participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

The Commission may also consider whether language clarifying when decisions are "inextricably interrelated" should be codified.

For example, decisions may be defined as being "inextricably interrelated" when, among other things, one decision is a necessary condition precedent, condition subsequent, or alternate to the other, or the result of one decision will effectively determine or nullify the result of another. Language providing this rule is based on Commission advice letters explaining when decisions are "inextricably interrelated."

To avoid any unnecessary confusion created by inclusion of the terms "condition precedent" and "condition subsequent," these terms can be omitted. Alternatively, the Commission may consider further language specifying that decisions are "inextricably interrelated" in circumstances including, but not limited, to the following:

- (1) The official has a financial interest in a decision, and a result in a prior decision determines, affirms, nullifies, or alters the decision in which the official has the financial interest; or
- (2) The official has a financial interest in a decision, and a subsequent decision will affirm, nullify or alter the decision in which the official has the financial interest, or the subsequent decision is required before the decision in which the official has the financial interest can proceed.

Finally, the Commission may consider codification of special rules relating to final decisions concerning certain budget and general plan adoption or amendment decisions.

SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its decisions concerning the segmentation process, its scope or other related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code sections 87100 and 87103.

CONTACT

Any inquiries should be made to Natalie Bocanegra, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after September 4, 2003, at 9:30 a.m. Written comments must be received at the Commission offices no later than noon on September 3, 2003.

BACKGROUND/OVERVIEW

The Legal Division periodically conducts a review of Commission regulations to keep them current. Several technical “clean-up” amendments are proposed which eliminate outdated references or make similar conforming changes. All of the proposed amendments are non-substantive in nature.

REGULATORY ACTION

Amend 2 Cal. Code Regs. section 18320(e): The obsolete reference to 2 Cal. Adm. Code Section 18321 needs to be amended to 2 Cal. Code Regs. section 18321.

Amend 2 Cal. Code Regs. section 18321: Amend Sections 18322 and 18324 to 2 Cal. Code Regs. sections 18322 and 18324 to clarify reference to Commission regulations.

Amend 2 Cal. Code Regs. section 18361: Regulation 18361, implementing Government Code section 83115.5, establishes a procedure to govern the provision of notice to respondents against whom the Commission has initiated enforcement proceedings. In subdivision (d), current regulation 18361 allows

service of process to be made upon a respondent by service of process or registered mail with return receipt requested.

Government Code section 8311 provides that “[w]herever any notice or other communication is required by any law to be mailed by registered mail to or by the state, or any officer or agency thereof, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of such law.” Government Code § 8311.

The Commission’s ability to effect service of process by certified mail is not apparent in a reading of the current language of regulation 18361, when read without reference to Government Code section 8311. However, when read in the context of Government Code section 8311, it is clear that the scope of regulation 18361, subdivision (d) includes service of process by certified mail.

The amendment of regulation 18361 to specify “certified mail” as a service of process option would provide clear notice to regulated parties and other stakeholders, unfamiliar with Government Code section 8311, that certified mail is an appropriate service option, without materially altering the current regulation. Specifically, this technical amendment would align regulation 18361 with current law.

Amend 2 Cal. Code Regs. section 18370(c): The statutory requirement that state agencies shall consult with the Commission and the Attorney General regarding appropriate course content before conducting each ethics orientation course required by Government Section 11146.1 actually exists in Government Code section 11146.4(c). Current regulation 18370 incorrectly references Government Code section 11146.4(b). This amendment would correct the error.

Amend 2 Cal. Code Regs. section 18419: Government Code section 82048.7(a) provides that a “[s]ponsored committee” means a committee, other than a candidate controlled committee, which has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.” Government Code section 82048.7(b) provides that “[a] person sponsors a committee if any of the following apply: . . .” Regulation 18419 was adopted in 1977 to interpret and implement Government Code section 82048.7. As currently written, regulation 18419(a)(2) provides “[s]ponsor” of a committee means any person, except a candidate, proponent, or other individual to whom any of the following applies: . . .” Insertion of a comma after “individual” in subdivision (a)(2) of regulation 18419 is necessary to make the exceptions to the meaning of “person” consistent with Government Code section 82048.7.

Amend 2 Cal. Code Regs. section 18420: Regulation 18420 concerns reporting of campaign contributions and expenditures of state or local government agencies. Staff recommends adding a reference to Government Code section 54964 (statute concerning restrictions on local agencies' expenditures on ballot measures) to the Comment in regulation 18420.

Amend 2 Cal. Code Regs. section 18703.1:

Background: Historically, the rules concerning "parents, subsidiaries, and otherwise related business entities" have been contained in two separate regulations. Regulation 18706 provides that an official has a *financial interest* in a decision within the meaning of section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any business entity *which is a parent or subsidiary of, or is otherwise related to a business entity in which the official has a financial interest.*

A separate regulation, regulation 18236, defined "parent, subsidiary, or **otherwise related business entity**" as it is currently defined in regulation 18703.1. The two sections read together provided that where a business was a parent, subsidiary or otherwise related to a business entity in which the official had an economic interest, the parent, subsidiary or otherwise related business would "stand in the shoes" of the business in which the official held the economic interest. In other words:

- A public official has a "financial interest" in a decision if the decision will have a foreseeable and material financial effect on a business entity in which he or she has an investment.
- *In addition*, the public official has a "financial interest" in a decision if the decision will have a foreseeable and material financial effect on a business entity that is a parent, subsidiary or is otherwise related to the business in the first bullet. This is the case even if the official holds no stock, receives no income, and holds no employment relationship with this otherwise related business.

In simpler terms, the Act deems that the official has an economic interest in both the investment interest and the parent, subsidiary or business that is otherwise related to that business. The official then will determine whether a decision will have a material financial effect on either of these businesses to determine if he or she has a conflict of interest.

In 1998, the existing rules regarding parents, subsidiaries, and otherwise related business entities

were merged and moved into regulation 18703.1 (step 3 of the standard analysis). The rationale was as follows:

"Proposed subsection (c) is simply current Regulation 18706 ('Financial Interests in Decisions Affecting Parents, Subsidiaries, or Otherwise Related Business Entities'), 'cut-and-pasted' to a new place. There are no changes to this language, other than paragraph renumbering.

"This is an example of 'compartmentalization,' which is one of the primary means by which we hope to simplify the regulations. It is self-evident that the 'otherwise-related-business-entities' rules are closely linked to other rules about business entities. Yet, in the current structure, they are stated in a section removed from the other rules. The proposed move to subsection (c), without otherwise changing the language, compartmentalizes the business entities rules in one place.

"Proposed subsection (d) is current Regulation 18236, which defines 'Parent, Subsidiary, Otherwise Related Business Entity.' Again, the existing language is 'cut-and-pasted' without substantive change, other than paragraph renumbering. Again, the purpose served is compartmentalization with similar rules." (Staff memorandum re: Second pre-notice discussion of proposed restructuring of conflict of interest regulations, dated August 21, 1998.)

As the memorandum points out, there was no intent to alter the existing advice under the otherwise related business entity rules.

The Problem: Step three is the appropriate location for the rule since the official is deemed to also have an economic interest in businesses which are parents, subsidiaries, or otherwise related to the investment interest. This is consistent with prior advice.

What is problematic is that the language of the old rule was imported, without change, into a step 3 regulation. The old rule was self contained (as opposed to a single step in a process), and dealt with whether the official had a financial interest in the second business. This necessarily included the "economic interest" determination, as well as the materiality and foreseeability determinations.

In contrast in its new location, the rule is merely a step in a multi step analysis. Insertion of the materiality and foreseeability analysis into step 3 is confusing and can lead to absurd interpretations that are inconsistent with the prior advice.

The Proposal: Amend the language to conform to its new location as a step 3 reg. The amendment will be relatively simple—remove the superfluous language that inadvertently imports step 6 and 7 analysis (materiality and foresee ability) into a step 3 reg.

Amend 2 Cal. Code Regs. section 18747(d)(1): Current regulation 18747(d)(1) indicates “significant segment” as being set forth in 2 Cal. Code Regs. section 18707(b)(1). “Significant segment” is defined in 2 Cal. Code Regs. section 18707.1(b)(1). The proposed amendment corrects the reference in regulation 18747(d)(1) from 18707 to 18707.1.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code sections 11146.1, 11146.4(c), 82048.7, 83114, 83115, 83115.5, 83116, 84102, 84200, et seq, 87100, 87102.5, 87102.6, 87102.8, 87103 and 87407.

CONTACT

Any inquiries should be made to Kelly L. Winsor, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

TITLE 2. STATE LANDS COMMISSION

MARINE OIL TERMINAL ENGINEERING AND MAINTENANCE STANDARDS

NOTICE OF PROPOSED RULEMAKING

The State Lands Commission (Commission) proposes to adopt the regulations described below after

considering all comments, objections or recommendations regarding the proposed action.

PUBLIC HEARING

The Commission Staff will hold two public hearings. The first, starting at 10:00 a.m. on October 15, 2003, will be at Pinole City Hall, Council Chambers, 2131 Pear Street, Pinole, CA 94564 and the second will be at 10:00 a.m. on October 16, 2003, at the Port of Long Beach Board Room, 925 Harbor Plaza, Long Beach, CA 90802. Both locations are wheelchair accessible. At the hearings, any person may present statements or arguments orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing they attend.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5:00 p.m. on October 20, 2003. All written comments must be received at the Commission, by that time. Written comments should be submitted to:

Attention: Livin D. Prabhu
Marine Facilities Division
State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802

Written comments may also be submitted by facsimile to (562) 499-6317, attention Livin D. Prabhu or by e-mail to “prabhul@slc.ca.gov”.

AUTHORITY AND REFERENCE

Public Resources Code (P.R.C.) Section 8755 directs the Commission to adopt regulations for reviewing the location, type character, performance standards, size and operation of all existing and proposed marine terminals within the state.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission proposes to adopt Sections 2500 through 2525 in Title 2 of the California Code of Regulations (CCR). These sections pertain to the adoption by reference of engineering and maintenance standards for marine oil terminals.

During the course of inspections at marine oil terminals carried out per 2 CCR 2320, the Commission staff determined that most, if not all, of these facilities are ageing, with some built in the 1920's. The average age is over 50 years. Design criteria for these facilities were basically non-existent when they were built, or at least minimal when compared to the present

practices. In the last 20 years, there has been the development of "performance-based design" to facilitate the analysis and design due to seismic forces. Much has been learned from recent earthquakes in countries with adequate building codes (e.g., Northridge, California (January 1994), Kobe, Japan (January 1995) and Izmit, Turkey (August 1999)). These events and the resulting damage to coastal structures have demonstrated that such damage can be significant and there is a real possibility of a major oil spill resulting from such an earthquake (Izmit 1999). Seismic forces can be significant, both in the lateral and vertical directions and can produce destructive effects, resulting in danger to the public health, safety and the environment. Additionally, the resulting damage may adversely affect the economic infrastructure of the state and nation. Seismologists predict moderate to severe earthquakes for the San Francisco Bay area and Southern California, within the next 40 years. In addition, there has been a steady increase in the size and deadweight of tank vessels berthing at marine oil terminals. These newer vessels impose substantially greater loads on the terminal than the ones for which the terminal was originally designed.

In order to mitigate the potential effects of future earthquakes and to ensure the safest possible operation of these terminals, the Commission submitted a proposal to the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP), coordinated through the Governor's Office of Emergency Services (OES), for the Development of Seismic and Fire Regulations for Marine Oil Terminals and Related Facilities. The proposal was accepted and a grant awarded. The Commission provided additional funding for the non-seismic portions of the effort.

The Commission's Marine Facilities Division (MFD) utilized the expertise of consulting engineers as contractors to help draft Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS). The MOTEMS development process included two engineering workshops that included the representatives of the regulated community (terminal owners and operators), engineering consultants, port engineers and engineering academicians. Two other workshops, regarding the related topics of offshore seismic and tsunami hazards were also held. Numerous meetings with the principle investigators of collateral projects (offshore seismic hazards analysis and tsunami hazard analysis) were held to ensure the incorporation of appropriate data into the proposed standards.

The process of developing the MOTEMS, has produced parallel guidelines and recommended provisions. The "Seismic Design Guidelines for Port

Structures," published in 2001 by the International Navigation Association (PIANC) uses text virtually identical to that found in the MOTEMS. The language for the PIANC and the MOTEMS comes from the Naval Facilities Engineering Service Center Technical Report (TR-2103-SHR), "Seismic Criteria for California Marine Oil Terminals," that was funded and directed by the Commission as part of the Hazard Mitigation Grant project.

In addition, engineering staff of the Commission has been directly involved in the development of standards at a national level. A subcommittee of the National Earthquake Hazards Reduction Program (NEHRP), including engineers from the MFD and the major ports of California, have developed a set of provisions that are being adopted for the 2003 edition of the "NEHRP Recommended Provisions for Seismic Regulations for New Buildings and Other Structures" (FEMA Publication 368). The seismic performance level proposed is the same as that used in the MOTEMS and has been agreed upon for future use by the Ports of Los Angeles, Long Beach, Oakland and San Francisco.

The Marine Oil Terminal Engineering and Maintenance Standards were submitted to the Governor's Office of Emergency Services (OES) on July 17, 2002, thereby completing the Hazard Mitigation Grant Program project. The standards as submitted to OES are "recommendations" and are currently published on the CSLC website

(http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm).

These standards have already been used for the re-assessment of a major marine oil terminal in California.

The Hazard Mitigation Grant proposal called for the MOTEMS to be drafted into regulations. Modifications have been made to the version of the MOTEMS cited above, primarily to improve reference citations. The current edition (June 2003) of the MOTEMS is being incorporated into regulations so as to ensure the criteria are implemented by the marine oil terminal (MOTs) operators in California. When MOTs meet the MOTEMS and are fit-for-purpose, the economic infrastructure of the State is protected, because these terminals will be capable of resisting the effects of future earthquakes. In addition, all vessels, including the larger vessels using these terminals, will now have a greater degree of safety when operating within the permissible environmental operating limits (maximum wind, current and impact). Having marine oil terminals meet the MOTEMS will help ensure protection of the public health, safety and the environment from oil spills resulting from earthquakes or excessive loads from vessels.

DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following determinations:

Mandate on local agencies and school districts: Ports or cities, which own, operate or lease marine oil terminals will be affected by these proposed regulations. They will be obliged to abide (see P.R.C. Section 8755) by these regulations, should they be adopted.

Cost or savings to any state agency: none

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: none

Other non-discretionary costs or savings imposed on local agencies: Ports or cities may incur sizable costs as a result of the inspections and the potential need for structural or other types of upgrading of marine oil terminals within their purview.

Cost or savings in federal funding to the state: none

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: There will be some economic impact on businesses owning and/or operating marine oil terminals in the state, as a result of the audit and analyses required by the proposed regulations and the incorporated MOTEMS. However, the impact may prove to be beneficial or cost saving, in the long run. The MOTEMS are designed in part to mitigate future seismic induced damage to these facilities, thereby preventing oil spills and their associated costs. They also may save the cost of downtime and repair, which can be very substantial. Mitigating seismic damage beforehand may enhance the ability of businesses to compete with businesses elsewhere and certainly could prevent a loss of commerce should a damaging earthquake occur.

Cost impacts on a representative private person or businesses: Private businesses (owners and operators of MOTs) may incur substantial costs as a result of these proposed regulations. Depending on engineering analyses and audit results, structural, electrical or mechanical upgrading of part or all of a berthing system may be required. The intention of these regulations is to ensure that these facilities are fit-for-purpose and that the best achievable protection of the public health, safety, environment and the state's infrastructure is being provided.

Adoption of these regulations:

- (1) May create jobs within California because the MOTEMS that will be incorporated by the proposed regulations will require engineering audits. These audits are technical inspections that may be performed by the terminal engineering personnel. However, MFD staff is aware that many of these terminals do not carry

appropriately qualified engineers on their staff; they will subsequently need to contract for these services. Because of the number of terminals in the state, existing contracting engineering firms may find it necessary to hire additional personnel to provide the needed services required by these proposed regulations within the timeframes imposed therein;

- (2) Will not create new businesses or eliminate existing businesses within California; and
- (3) May affect the expansion of businesses currently doing business within California, for the reasons mentioned in (1) above.
- (4) May expand the marine construction industry, as these facilities perform the required upgrades. Also, there may be purchase and installation of new equipment, pipelines, control systems or other components, as the operator complies with the requirements of MOTEMS.

Significant effect on housing costs: none

Small Business Determination

The Commission has determined that none of the business that will be governed by these proposed regulations can be considered to be a "small business" as defined in Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5 (a)(13) the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquires concerning the proposed administrative action may be directed to:

Livin Prabhu, Supervisor, Planning Branch
Marine Facilities Division
California State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6312

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Livin Prabhu at the above address.

The backup contact persons for these inquiries is:

Martin Eskijian, P.E., Supervising Engineer
Marine Facilities Division
California State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6312

or

John Freckman
address and phone number, same as above

AVAILABILITY OF THE STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above addresses. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearings and considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Mr. Prabhu at the above address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Prabhu at the above address. The Final Statement of Reasons will also be posted on the Divisions website at:
[http://www.slc.ca.gov/Division_Pages/MFD/
MFD_Home.htm](http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm)

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Propose Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through our website at
[http://www.slc.ca.gov/Division_Pages/MFD/
MFD_Home.htm](http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm).

When completed the modified text of the regulations and the Final Statement of Reasons will be posted on the same website.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On September 18, 2003 at 10:00 a.m. in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On September 18, 2003 following the Public Meeting in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On September 18, 2003 following the Public Hearing in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on September 18, 2003.

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 2
Section 1523
Illumination for Nighttime Highway Construction Projects
2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 25
Section 3663
Maintenance of Industrial Trucks

A description of the proposed changes are as follows:

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 2
Section 1523
Illumination for Nighttime Highway Construction Projects

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking action is being initiated in response to a petition (Petition File No. 431) submitted by Mr. Ray Ruggles (Petitioner), Construction Safety Coordinator, District 11, California Department of Transportation (Caltrans). The Petitioner requested that the minimum illumination intensity level for road construction work be increased from 5 foot-candles to 10 foot-candles (fc), stating that the minimum illumination intensity level of 5 fc currently required by Construction Safety Orders Section 1523 for nighttime highway construction work is marginally adequate. The Petitioner stated that, due to high traffic densities in metropolitan areas during the daytime, most road construction work has gradually moved from daytime to nighttime. More than 90 percent of Caltrans contracts in metropolitan areas require night work schedules. In some areas the traffic densities are among the highest in the world. The current 5 fc standard for minimum illumination for outdoor construction areas was adopted when highway construction work was usually done during the day and the traffic densities were low. Current industry practice dictates that, in some situations, the highway construction workers perform their tasks in proximity to (sometime inches from) passing traffic.

The Petitioner further indicated that 5 fc intensity of illumination specified in the table in Section 1523 is barely enough for the typical outdoor construction work area. Modern-day nighttime highway construction work has become increasingly complex. In some cases, there is continuous entering and exiting of construction traffic in long, narrow areas adjacent to high-speed highway traffic. Under these conditions, the current illumination standard is not adequate for illuminating the large expansive areas and providing early warning to approaching motorists that workers are present in the vicinity. The Petitioner, therefore, believes that workers on foot would be more readily recognized with increased illumination.

This proposed rulemaking action contains several nonsubstantive editorial revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Section 1523. Illumination.

Section 1523. Illumination.

Section 1523 contains specific regulatory language requiring all construction areas, ramps, corridors, offices, shops and storage areas, etc., to be provided with illumination that meets the intensities specified in a minimum illumination intensities table for various categories of indoor and outdoor construction sites and activities. The table currently specifies four different illumination intensities for various areas or operations. This table does not specify a category or an illumination intensity for nighttime highway construction work.

An amendment is proposed to include in the table an illumination intensity level of 10 fc for nighttime highway construction work. The proposed amendment will ensure that employees conducting nighttime highway construction work will be provided with adequate illumination to safely and efficiently perform his/her tasks and to be made visible to oncoming traffic. The proposed amendment will have the effect of requiring employers to provide a minimum illumination intensity level of 10 fc to employees performing nighttime highway construction work.

In addition, it is proposed to update the American National Standard, A11.1-1973, Practice for Industrial Lighting document reference, which is no longer in print and is unavailable to the general public, to the latest industrial lighting standard published by the

Illuminating Engineering Society (IES) of North America, American National Standard (ANSI) IES, Publication RP-7-1991 for industrial lighting. The proposed amendment will replace the existing informational reference document with that which is currently available to the public and will have no effect on the regulated public.

A new subsection (b) is proposed which will clarify that nighttime construction illumination is to be provided in the work zone in a manner that will minimize glare to work crews and not interfere with the night vision of oncoming motorists by providing screens, varying the beam angle, etc. Proposed new subsection (b) will ensure that the increased illumination required to be provided during nighttime highway construction work will not create a glare problem to both construction site workers and the motoring public.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. It should be noted that the California Department of Transportation has already implemented the proposed 10 fc illumination requirement on all its highway construction jobsites in California. In addition, staff also learned that the 10 fc illumination requirement is a condition of Caltrans contracts with private sector highway construction companies through contractual arrangement between the state and private sector construction firms.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose non-discretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention

of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A description of the proposed changes are as follows:

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

Chapter 4, Subchapter 7, Article 25
Section 3663

Maintenance of Industrial Trucks

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) received a memorandum from the Division of Occupational Safety and Health (Division), dated July 27, 2001 with attached Cal/OSHA Form 9, Request for New, or Change In Existing, Safety Order, regarding GISO Section 3663, which addresses the maintenance of industrial trucks, such as but not limited to, industrial truck repair operations conducted in proximity to open flame, maintenance of water mufflers, keeping industrial trucks clean, care of truck batteries, etc. The Division's memorandum stated that currently, Section 3663 does not require the same protection or requirements as specified in 29 Code of Federal Regulations (CFR) 1910.178, and requested that the Board adopt the language from the federal standard verbatim. The Division identified two federal requirements, 29 CFR 1910.178 (q)(6) and (q)(12), which address alterations to industrial trucks and industrial truck fuel conversions that are not addressed in Section 3663. These two federal regulations are important in terms of employee safety to: 1) ensure that when repaired, the integrity of the truck is not compromised through the use of incompatible parts which do not meet the manufacturer's specifications; and, 2) ensure that gas fuel conversions are performed in a manner that will ensure the truck will operate safely, specific to the type of fuel used, and that only approved conversion equipment is used. The Division also suggested an editorial revision to existing Section 3663(e) to clearly emphasize to the employer that **all** industrial truck replacement parts are to be equal in safety to the original parts being replaced, consistent with counterpart federal language contained in 29 CFR 1910.178(q)(5).

This proposed rulemaking action incorporates the aforementioned federal language essentially verbatim, while maintaining consistency with existing Title 8 format as follows:

Section 3663. Maintenance of Industrial Trucks.

Section 3663 contains regulations which address the maintenance of industrial trucks including, but not limited to, truck repair operations conducted in

proximity to open flames, maintenance of water mufflers, keeping trucks clean, care of batteries, etc.

Existing subsection (e) requires replacement truck parts to be equivalent in safety to the original part(s) they replace. A revision is proposed to specify that all replacement parts shall be equivalent in safety to the part(s) being replaced, consistent with 29 CFR 1910.178(q)(5). The proposed revision will ensure that the state's standard is at least as effective as its federal counterpart regulation, and will clearly emphasize to employers that any and all truck parts that are replaced must provide safety equivalent to the parts being replaced so that the truck is maintained in a safe operating condition.

New subsection (g) is proposed, taken from 29 CFR 1910.178(q)(6), that will prohibit the alteration of trucks to the extent that the relative positions of parts are different from what was originally received from the manufacturer, and prohibit the addition of extra parts not provided by the manufacturer, or the elimination of parts except as provided in proposed new subsection (h), which regulates the conversion of truck fuel systems. In addition, new subsection (g) prohibits additional counterweighting of fork trucks unless it is approved by the truck manufacturer. Proposed new subsection (g) will make the state's standard regarding maintenance of industrial trucks at least as effective as its federal counterpart regulation, and will ensure that industrial trucks are not altered in a manner inconsistent with manufacturer specifications.

New subsection (h) is proposed, taken from 29 CFR 1910.178(q)(12), which permits industrial trucks originally approved for the use of gasoline for fuel to be converted to liquefied petroleum gas fuel, provided the conversion yields a truck that is equipped with the features specified for LP or LPG* operation and that the conversion equipment is approved. The proposed new language will make the state's standard regarding maintenance of industrial trucks at least as effective as its federal counterpart regulation, and will ensure that truck conversions contain only approved equipment and result in a truck that embodies the features specific to the type of fuel to be used.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

* Board staff notes that the federal language refers to "LPS" vs. "LPG"-designated trucks and proposes to make the state standard reference "LPG", since it is unclear what is meant by "LPS". "LPG" stands for liquefied petroleum gas and is a commonly used industry term. "LPS", however, is not an industry-used term and could not be identified in any national consensus standard or reference.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any

way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 12, 2003. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 18, 2003 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submit-

ted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

File No. RH 03031129

Date: July 22, 2003

SUBJECT OF HEARING

Notice is hereby given that the Insurance Commissioner proposes to adopt the regulation described below after considering comments from the public. The Commissioner proposes to add to Title 10, California Code of Regulations, Chapter 5, Subchapter 3, Article 7.2, the new Section 2361 entitled: Consideration of Losses and Loss Exposure in Residential Property Insurance Rating and Underwriting. The regulation will implement guidelines for rating and underwriting residential property insurance.

The proposed regulation was also an emergency regulation which was approved and effective on July 21, 2003. This Notice is to begin the permanent rulemaking process. Please note that the text of the proposed regulation differs from the emergency regulation text.

AUTHORITY AND REFERENCE

The Commissioner proposes to adopt the proposed regulation under the express authority of California Insurance Code Section 790.10. These regulations are also authorized by Insurance Code Sections 679.71, 791.02, 791.10, 791.12, 1857, 1857.2, 1857.3, 1857.7, 1861.05 and 12926.

The proposed regulation will implement, interpret, and make specific California Insurance Code Sections 675, 676, 679.71, Article 6.5, 790. et seq., 791.02, 791.10, 791.12, 1857, 1857.2, 1857.3, 1861.03, 1861.05 and 12926.

HEARING DATES AND LOCATIONS

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation on the following dates at the following locations.

September 23, 2003—10:30 a.m.

**Ronald Reagan State Building Auditorium
300 South Spring Street
Los Angeles, CA 90013**

September 25, 2003—10:30 a.m.

**Hiram Johnson State Building Auditorium
455 Golden Gate Avenue
San Francisco, CA 94102**

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS: CONTACT PERSONS

All persons are invited to present oral and/or written comments at the scheduled hearing. Written comments not presented at the hearing must be addressed to the following contact person:

Donald Hilla, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4108

Questions regarding the hearing, comments or the substance of the proposed action should be addressed to the above contact person. If the contact person is unavailable, inquiries may be sent to the backup contact person:

Lara Sweat, Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4192

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Commissioner, care of the contact person at the address listed above, by no later than **5:00 p.m. on September 17, 2003**. Any materials received after that time will not be considered.

COMMENTS TRANSMITTED BY
ELECTRONIC COMMUNICATION

The Commissioner will accept and strongly encourages written comments transmitted by e-mail, provided they are sent to the following e-mail address: hillad@insurance.ca.gov. The Commissioner also requests a hard copy of the comments electronically submitted. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of **Donald Hilla** using the following fax number: **(415) 904-5490**. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person for this hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of subchapter 4.5, title 10 of the California Code of Regulations, in connection with their participation in this matter. Persons interested in inquiring about the appropriate procedures should contact the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST

Summary of Existing Law

CIC § 675 defines residential property risks. The proposed regulation refers to this definition in defining the scope of the proposed regulation.

CIC § 676 provides the legal requirements for a valid notice of cancellation and non-renewal of a residential property insurance policy. The proposed regulation refers to this definition in defining the scope of the proposed regulation and clarifies acts that may violate CIC § 676.

CIC § 679.71 provides an insurer may not refuse to issue a policy of residential property insurance under conditions less favorable to the potential insured than to other comparable potential insureds. The proposed regulation makes clear that loss history falls within the definition of “personal information” within the meaning of CIC 791.02 and that basing an adverse underwriting decision solely on information garnered from insurance-support organization databases may result in a violation of CIC § 679.71.

CIC Article 6.5, § 790 et seq. provides for regulation of trade practices in the business of insurance. These sections define prohibited acts and lists unfair and deceptive acts or practices. This regulation clarifies acts that may violate CIC § 790 et seq. CIC § 790.06 provides that under certain circumstances the Commissioner may define what constitutes an unfair insurance practice. The proposed regulation clarifies acts that may violate CIC § 790 et seq.

CIC § 790.10 provides that the commissioner shall promulgate reasonable rules and regulations to administer CIC § 790 et seq. This section permits the Department to adopt regulations to interpret and make specific CIC § 790 et seq.

CIC § 791.02 is a comprehensive section that provides a number of definitions related to the subject matter of the proposed regulation. CIC § 791.02(a)(1) defines the term “adverse underwriting decision” as the term is used in this regulation. CIC § 791.02(s) defines the term “personal information.” The Commissioner has determined that that term includes historical loss information as well credit-related information. CIC § 791.02(1) defines the term “insurance-support organization” as it is used in this regulation. The proposed regulation, through the use of concrete examples, makes more specific this section.

CIC § 791.10(a) provides the duties imposed on insurers when there is an adverse underwriting decision and CIC § 791.12(b) provides that an insurer may not predicate an adverse underwriting decision on information gathered from an insurance-support organization unless it obtains “further personal information” from some source other than the insurance-support organization. The proposed regulation, through the use of concrete examples, makes more specific this section.

CIC § 791.12(b) provides that an insurer may not predicate an adverse underwriting decision on information gathered from an insurance-support organization unless it obtains “further personal information” from some source other than the insurance-support organization. The proposed regulation, through the use of concrete examples, makes more specific this section.

CIC § 1857(a) requires insurers to maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience, of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems and underwriting rules. The proposed regulation makes the records requirements in CIC § 1857(a) more specific by detailing exactly the kind of records that must be kept in relation to compliance with the various insurance laws regarding rates, rating plans, rating systems and underwriting rules.

CIC § 1857.2 provides for additional examinations of the rates and rating systems of insurers. The proposed regulation makes the examination requirements in CIC § 1857.2 more specific by detailing exactly the kind of records that must be kept in relation to compliance with the various insurance laws regarding rates, rating plans, rating systems and underwriting rules.

CIC § 1857.3 provides who is subject to examination pursuant to CIC § 1857 and what documents or records shall be examined. The proposed regulation makes the records requirements in CIC § 1857.3 more specific by detailing exactly the kind of records that must be kept in relation to compliance with the various insurance laws regarding rates, rating plans, rating systems and underwriting rules.

CIC § 1857.7 provides the contents of a rate change application. This section relates to underwriting for a number of reasons. Rates are numbers that are applied through underwriting. The assessment of risk in relation to the potential insured or the potential property to be insured is made by the gathering of information about the insured and the property to be insured. This information is applied, at least in part, through underwriting rules and guidelines. Failure to maintain underwriting guidelines that are sufficiently specific may result in an unfairly discriminatory rate (CCR § 2360.2). Underwriting rules that may be sufficiently specific may nonetheless be applied in an unfairly discriminatory manner. The rate charged based on unfairly discriminatory underwriting would be an unfairly discriminatory rate. The proposed regulation, through the use of concrete examples, makes more specific this section of the CIC as it relates to residential property underwriting.

CIC § 1861.03(a) provides that the business of insurance shall be subject to the laws of California applicable to any other business, including, but not limited to, the Unruh Civil Rights Act (Sections 51 to 53, inclusive, of the Civil Code), and the antitrust and unfair business practices laws (Parts 2 (commencing with Section 16600) and 3 (commencing with Section 17500) of Division 7 of the Business and Professions Code). This regulation, through the use of concrete examples, makes more specific this section.

CIC § 1861.05(a) provides that no rate shall remain in effect that is excessive, inadequate, unfairly discriminatory or otherwise in violation of Chapter 9 of the Insurance Code. This section relates to underwriting as well as to rates for a number of reasons. Rates are numbers that are applied through underwriting. The assessment of risk in relation to the potential insured or the potential property to be insured is made by the gathering of information about the insured and the property to be insured. This information is then combined with underwriting rules and rating guidelines to arrive at the premium to be paid by the insured. This excursive is known as underwriting.

Eligibility guidelines are guidelines applied during the underwriting process. These guidelines are designed to screen potential applicants. This screening process necessarily has a direct effect on the pool of risks the insurer will be taking on, as such, these rules necessarily affect potential losses. The loss component in any ratemaking formula is a key component and one that has a profound effect on rates. The Commissioner clearly has jurisdiction over rules that have a profound, direct effect on rates.

Failure to maintain underwriting guidelines that are sufficiently specific may result in an unfairly discriminatory rate (CCR § 2360.2). Underwriting rules that may be sufficiently specific may nonetheless be applied in an unfairly discriminatory manner. The rate charged based on unfairly discriminatory underwriting would be an unfairly discriminatory rate.

It is clear that the Commissioner has jurisdiction over rates as well as underwriting. This question was put the rest in *Wilson v. Fair Employment and Housing*, 46 Cal. App. 4th 1213, 1223; 54 Cal. Rptr. 2d 419, 424; (1996) where the court stated: . . .the Insurance Commissioner clearly possesses the expertise to evaluate and resolve issues regarding actuarial risks and allegedly discriminatory underwriting practices.

The Office of Administrative Law has also held that CIC § 1861.05 prohibition against unfair discrimination extends to underwriting. In *2000 OAL Determination No. 15*, the insurer requesting (the “requester”) the OAL determination argued that CIC §§ 1861.01 and 1861.05 applied only to rates and not to underwriting. The OAL Determination provides:

OAL disagrees with the requester that existing law, either statutory or regulatory, limits filing requirements to rates. For filing requirements that go beyond the filing of just “rates,” see Insurance Code section 1861.05(b) (“such other information as the commissioner may require”) and Title 10, CCR, sections 2643.3(b) (“require the filing of such other information as he or she deems necessary to review the application and 2648.4(b) (“submission of relevant underwriting rules”).

Indeed, as the Office of Administrative Law pointed out, there are myriad examples in the current law where the Commissioner takes jurisdiction over underwriting as well as rates.

The proposed regulation, through the use of concrete examples, makes more specific this section of the CIC as it relates to residential property underwriting.

CIC § 1861.05(b) requires every insurer which desires to change any rate to file a complete rate application with the commissioner. A complete rate application shall include all data referred to in Insurance Code sections 1857.7, 1857.9 and 1864 and such other information as the commissioner may require. The proposed regulation, through the use of concrete examples, makes more specific this section.

CIC § 12926 provides that the commissioner shall require compliance from every insurer with all the provisions of the CIC. This regulation, by clarifying residential property underwriting requirements, makes more specific this section of the CIC as it relates to residential property underwriting.

CCR § 2348.4 requires the filing of underwriting eligibility guidelines. Cited as authority for this regulation is CIC § 1861.05. The proposed regulation is similar in application yet narrower in scope as it applies to only residential property insurance.

CCR § 2360.0 provides that eligibility guidelines are specific, objective factors, or categories of specific, objective factors, which are selected and/or defined by an insurer, and which have a substantial relationship to an insured's loss. The proposed regulation, through the use of concrete examples, compliments this section.

CCR § 2360.2 requires insurers to maintain eligibility guidelines for every line of insurance offered for sale to the public. The eligibility guidelines must be sufficiently detailed to determine the appropriate plan for the insured. The proposed regulation is similar in application yet more narrow in scope as it applies to only residential property insurance. This regulation, through the use of concrete examples, compliments this section.

CCR § 2348.4 sets forth the requirement for a complete rate change application. Subsection (b) clearly refers to "underwriting rules." The proposed regulation is similar in application yet more narrow in scope as it applies to only residential property insurance. This regulation, through the use of concrete examples, compliments this section.

POLICY STATEMENT OVERVIEW

A convergence of forces and unforeseen circumstances has come together in California to create a crisis in the residential property insurance market. The

insurance industry, consumer protection groups, the press and the general public have all become aware of the situation.

While there are laws specific to insurance rating and underwriting that address cancellation, nonrenewal and eligibility for homeowners insurance, both the insurance industry and the insurance consuming public are unclear as to the exact application of these laws. This regulation is specifically designed to define, clarify and make specific the application of these laws in California.

The residential property insurance crisis centers around the cancellation and nonrenewal of existing homeowners coverage and a general lack of availability due to underwriting and eligibility guidelines applied by insurers that appear in many cases to be in noncompliance with the current insurance laws. The situation has been referred to in the press, and by the Commissioner, as "use it and lose it." Under this scenario, even simple coverage inquiries have been used as the basis for cancellation and nonrenewal of insurance coverage.

The most visible evidence of this crisis is the number of media reports on the lack of availability of homeowners policies. The Commissioner has also been in communication with the real estate and financial industries and with various constituents who are being affected by this crisis.

A significant number of Californians have found it impossible to purchase residential property insurance or had their residential property insurance cancelled or nonrenewed due to acts that may be noncompliance with the California Insurance Code and California Code of Regulations. Many insurers in applying cancellation, nonrenewal and underwriting rules that are not clearly defined, or that rely solely on imperfect and inconsistent databases alone, have aggravated the insurance availability crisis in California.

Many of the problems in this area can be traced to the use of loss history databases compiled by various insurance-support organizations. Much of the data contained in these databases is imperfect and inconsistent, and reliance upon these imperfect and inconsistent databases may result in unfairly discriminatory treatment of policyholders and applicants. Even where the data in the databases is not flawed, current law in California requires that underwriting decisions not be based solely on the contents of the databases but only after further information is gathered from a source or sources other than that gathered from the insurance-support organization. Also, current law requires insurers to evaluate the risk of future loss in making any underwriting decision. The Commissioner believes that insurance industry reliance on these databases is exacerbating the availability crisis and

that, if field exams can be used as a barometer, many insurers are foregoing the required underwriting evaluations.

By defining certain terms and providing concrete examples this regulation is designed to clear up any ambiguity in this area of the insurance law. The Commissioner believes that until such time as this regulation is promulgated, the crisis will continue and insurers will continue to forego the underwriting evaluations currently required by law.

This regulation is intended to provide clear guidelines for the rating and underwriting of residential property insurance policies. Underwriting decisions take into account a number of factors which will vary from case to case. The Commissioner recognizes that it is impossible to anticipate every factor which will affect rating and underwriting. These regulations, therefore, do not attempt to impose a rigid, inflexible formula for residential property rating and underwriting.

The stated purpose of Proposition 103 "is to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians." The Commissioner is charged with enforcing Proposition 103 and all other California Insurance Code provisions. The Commissioner believes proposing this regulation is necessary to ensure homeowners insurance remains available in California.

Effect of Proposed Action

The proposed regulation will implement, interpret and makes specific several California Insurance Code sections in relation to residential property rating and underwriting. The proposed regulation will also provide clear, objective definitions and standards so that those subject to the regulation have a better understanding of what is required pursuant to the Code and Regulations. By providing a clear and consistent set of definitions, the proposed regulation will facilitate industry understanding of the terms and will prevent confusion and inconsistencies in residential property underwriting. The proposed regulation will also make clear how the various Insurance Code provisions interact with respect to residential property underwriting.

The criteria and guidelines proposed will also result in more effective residential property rating and underwriting by making clear that there is no justification for basing an adverse underwriting decision on losses or loss exposures which no longer exist because they bear no relationship to the risk of loss. Further, the proposed regulations make clear that mere inquires cannot be used to form the basis of an

adverse underwriting decision because inquiries bear no relationship to the future risk of loss. An inquiry about mold coverage does not cause the house to get toxic mold. Similarly, the proposed regulation also makes clear that an adverse underwriting decision must be based on exposure to loss, and therefore an insurer must gather sufficient information to make a reasonable determination about what the actual loss exposure is before using that loss exposure to rate the policy.

In summary, the effect of this proposed regulation will be to promote proper underwriting in the homeowners lines of insurance to bring an end to the availability crisis, as well as providing an objective way for the Department to verify compliance with the insurance laws.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

This proposed regulation does not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE AGENCY

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH OTHER STATES

The Department has made an initial determination that adoption of the proposed regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The types of businesses that may be affected are insurers and insurance underwriters. There will be additional record-keeping requirements imposed upon certain insurers that have not previously required. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact

on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

The types of businesses affected by the proposed regulations are insurers that transact residential property insurance in the State of California.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON JOBS IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action. The Commissioner, however, invites public comment on alternatives to the regulation.

Performance standards were considered. The objective identified was fairness in residential property underwriting. However, one of the reasons performance standards were rejected was that the criteria by which the attainment of this objective was to be

evaluated would necessarily be impracticable, vague or otherwise ineffective given the abstract nature of the objective.

Performance standards were considered and rejected because it was decided that compliance with performance standards would be much more costly than compliance with prescriptive standards in the context of residential property underwriting. Prescriptive standards are more efficient in this context because, unlike performance standards, they provide the affected businesses a means of determining with certainty and exactitude whether or not they are in compliance, and if they are not, how to achieve compliance. Additionally it was felt that performance standards would foster costly litigation.

IMPACT ON SMALL BUSINESS

The matters proposed herein will only affect insurance companies, and therefore will not affect small business. (Gov. Code Section 11342.610, subd. (b), para. (2).)

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulation.

TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based and the express terms of the proposed action. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact persons listed above.

FINAL STATEMENT OF REASONS

Upon **written or e-mail** request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Near the bottom of the page, under "Select a Topic" click on "Consumers". Scroll down to the heading "Regulatory Activity." In this section, scroll down until you see the subheading "Proposed Regulations—Search." Click on the "Proposed Regulations—Search" link. When the "Search" screen appears, you may choose to find the documents by either conducting a search or by browsing for them by name.

To search, enter RH03031129 (the Department's regulation file number for these regulations) in the "Search for" field. Alternatively, search using as your search term the California Insurance Code number of a code section that the regulations implement (for instance, "1861.05"), or search by key words ("losses" for example). Then, click on the "Submit" button to display links to the various filing documents."

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Losses and Loss Exposure" link, and click it. Links to the documents associated with these regulations will then be displayed.

AVAILABILITY OF MODIFIED TEXT OF REGULATION

If the regulations adopted by the Department differ from but are sufficiently related to the original text, the Department will make the modified text available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Hardwood Retention—2003

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following section of Title 14 of the California Code of Regulations (14 CCR):

§§ 939.15 and 959.15 Protection of Wildlife Habitat

PUBLIC HEARING

The Board will hold a public hearing starting at 11:00 A.M., on Tuesday, September 16, 2003, at the Employment Development Department, 722 Capital Mall, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 15, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: George Gentry
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551, 4553 and 4561 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561.1 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing statute 4512(c) of the Public Resources Code (PRC) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to give consideration to the public's need for wildlife.

Existing statute 4513(b) of the PRC states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to give consideration to the values relating to wildlife, range and forage.

Existing regulation in 14CCR §§ 939 and 959 states that timber operations shall be planned and conducted to maintain suitable habitat for wildlife species.

Existing regulation in the hardwood cover subsection of the biological resources portion of the Appendix to Technical Rule Addendum # 2 of 14CCR §§ 932.9 and 952.9 states hardwoods provide an important element of habitat diversity in the coniferous forest and are utilized as a source of food and/or cover by a large proportion of the state's bird and mammal species. Productivity of deer and other species has been directly related to mast crops. Hardwood cover can be estimated using the basal area per acre provided by hardwoods of all species.

Existing regulation in the special habitat elements subsection of the biological resources portion of the Appendix to Technical Rule Addendum # 2 of 14CCR §§ 932.9 and 952.9 states the loss of a key habitat element may have a profound effect on a species even though the habitat is otherwise suitable. Each species may have several key limiting factors to consider. For example, a special need for some large raptors is large decadent trees/snags with broken tops or other features. Deer may have habitat with adequate food and cover to support a healthy population size and composition but dependent on a few critical meadows suitable for fawning success. These and other key elements may need special protection.

Existing regulation in 14CCR § 959.15 (a) states, for the southern subdistrict, that where present at time of timber harvest, 400 sq. ft. basal area of oak per 40 acres should be retained and protected, giving preference to deciduous oaks. Oaks should be retained on areas designated by DFG as deer migration

corridors, holding areas, or key ranges when consistent with good forestry practices. Although this regulation does not apply to the state as a whole, it demonstrates the necessity to consider hardwood retention when planning timber harvests.

Existing regulation in the hardwood cover subsection of the biological resources portion of the Appendix to Technical Rule Addendum # 2 of 14CCR §§ 932.9 and 952.9 was amended in a rulemaking package last year to insure that more consideration was given to deciduous hardwood retention by stating "Post-harvest deciduous oak retention for the maintenance of habitats for mule deer and other hardwood-associated wildlife shall be guided by the Joint Policy on Hardwoods between the California Board of Forestry and California Fish and Game Commission (5/9/94). To sustain wildlife, a diversity of stand structural and seral conditions, and tree size and age classes of deciduous oaks should be retained in proportions that are ecologically sustainable. Regeneration and recruitment of young deciduous oaks should be sufficient over time to replace mortality of older trees. Deciduous oaks should be present in sufficient quality and quantity, and in appropriate locations to provide functional habitat elements for hardwood-associated wildlife."

The proposed regulation is designed to provide guidelines for Timber Harvest Plan preparers with regard to deciduous oak retention in the Northern and Southern Forest Practice Districts of California.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- Cost impacts on representative private persons or businesses: The Board has made an initial determination that there will be minor statewide adverse financial impacts on a representative private persons or businesses in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. Current regulations require small businesses submitting Timber Harvest Plans to consider and plan for wildlife habitat and hardwood retention as described in Appendix to Technical Rule Addendum #2 of 14CCR §§ 932.9 and 952.9, and in 14CCR § 959.15(a).
Additionally, small businesses often have objectives that include a high level of ecological stewardship practices that result in planning and retention of a diversity of tree species, including hardwoods. Small business stewardship often includes hardwood protection plans as part of land management practices relating to timber harvests. The combination of current regulatory requirements in place for protecting hardwoods with small business objectives to manage for hardwood habitat diversity is likely to result in little to no additional cost impact by implementing the proposed rule amendment.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: George Gentry
Acting Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418 or,
(916) 653-8007

The designated backup person in the event Mr. Gentry is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text-with the changes clearly indicated-available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Road Management Plan—2003

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

§ 895 Abbreviations Applicable Throughout the Chapter

§ 898.2 Special Conditions Requiring Disapproval of Plans

The Board proposes to adopt the following sections of Title 14 of the California Code of Regulations (14 CCR):

§ 923.10 (943.10, 963.10) Road Management Plan, Goals

§ 923.11 (943.11, 963.11) Content of Road Management Plan

§ 923.12 (943.12, 963.12) Road Management Plan Part of Plan

PUBLIC HEARING

The Board will hold a public hearing on Tuesday September 16, starting at 10:00 a.m., at the Employment Development Department Auditorium, 722 Capitol Mall, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 15, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who

submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Mr. George Gentry
Acting Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:
(916) 653-0989

Written comments may also be delivered via e-mail at the following address:
board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 authorizes the Board to adopt such Rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562.5, 4562.7, 4562.9, 4582, and 4584 of the Public Resources Code. PRC § 4513(b) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to consider watershed, wildlife, and fisheries. These regulatory changes will further that goal.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) established the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public

Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In 1996, the State Fish and Game Commission listed coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA). Then in 1997, the National Marine Fisheries Service (NMFS) listed coho salmon as threatened throughout its range in California under the Federal ESA. Steelhead trout was listed by NMFS as a threatened species in the Northern California ESU on June 7, 2000. In April 2001, the State Fish and Game Commission accepted a petition to list coho salmon as endangered north of San Francisco Bay. In May of 2001, the Fish and Game Commission adopted an emergency regulation, which established the coho salmon as a threatened species. The Commission also adopted the Board Interim regulations as the minimum protection to be provided to the species for the effects of timber harvesting.

Among many other sources of information considered by the Board in preparing the Board Interim rule proposal and this proposed change, a comprehensive review of the California Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species, has been prepared for the Board (Report of the Scientific Review Panel [SRP report], 1999). Following an extensive review of the regulations, "The SRP concluded the FPRs, including their implementation (the 'THP process') does not ensure protection of anadromous salmonid populations" (Report of the Scientific Review Panel, 1999). Although this report was specific to the North Coast region, the Board believes that many of the recommendations made in the report could be effectively applied throughout the State to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

The Board of Forestry and Fire Protection recognized the substantial concerns raised by other agencies additionally charged with the protection of the State's valuable watershed resources. The Board is also extremely aware of the need to protect listed species that may be impacted by practices that are regulated under the Board's purview, regardless of their location within the State. Furthermore, the Board recognized the potential for economic impacts to timberland owners and others that could be imposed from certain types of restrictions or requirements. Considering these factors, the Board adopted changes to the Forest Practice Rules under a previous rulemaking package (Protection for Threatened and Impaired Watersheds, 2000).

It should be noted that pursuant to PRC §§ 4512, 4513, 4551, 4551.5, 4552, and 4553; the Board is moving forward with action to further analyze the effectiveness of the rules to protect listed species and the beneficial uses of water. In order to clarify the Board's intent to address the protection of listed aquatic species and watercourses listed as impaired (pursuant to section 303(d) of the Clean Water Act) on a watershed basis, the Board chose to establish a specific period of time that the rule changes adopted July 1, 2000, would be effective.

By imposing a limit on the effective period of the rule changes, the Board is allowed to work with landowners, scientists and other parties during the balance of the year 2000 to investigate whether an alternative regulatory approach can be developed. The Board established a group (Ad Hoc Watershed Committee) to research whether an alternative approach can be developed that would use enhanced scientific analysis and the principals of watershed analysis to determine, among other things, the potential cumulative environmental impacts of proposed timber harvesting operations and associated activities.

The Ad Hoc Watershed Committee has met numerous times since being appointed to evaluate the current accumulation of knowledge applicable to specific watershed basins. The Committee recognizes that information continues to accumulate through efforts such as the North Coast Watershed Assessment Program (NCWAP). Information such as this is now available for only three watersheds. The Board cannot wait that long to take action.

The Board held a Watershed Assessment/Evaluation workshop at Blodgett Experimental Forest in April 2000. At this workshop and through the SRP, Monitoring Study Group Reports and other information, the Board determined that roads and crossings are one of the biggest sources of the limiting factor of sediment to listed species. The Board is confident that many of the protections afforded in the Board Interim Rules on Road and Landings are reducing the impacts to listed species by sediment. The Committee provided public notice to adopt protections specifically designed for Road and Landings in 2002. Testimony was submitted at the public hearing in 2002 that raised issues the Board took under submission. After due consideration, the Board chose not to adopt the 2002 regulatory proposal. The Ad-Hoc Watershed Committee subsequently established an interagency task group to conduct an in-depth review of the direction being taken by the Board. A recommendation was returned to the Board in 2003 to pursue development of a Road Management Plan to be included as part of Timber Harvesting Plans (THP's). Such a plan would be

developed on site specific information and practices designed for implementation that would protect the public trust resources, including water quality.

The Board hopes that an accumulation of knowledge applicable to specific watersheds and basins will continue and ultimately be brought together by the various agencies and the public. This knowledge will then be used to further tailor site-specific forest practices to avoid any significant environmental impacts from individual timber harvesting plans, or cumulative impacts from various activities in a watershed that could combine with the effects of timber harvesting. Although advances have been made toward this goal, it is a complex issue and much remains to be done. The Board Ad Hoc Watershed Committee is continuing to accumulate knowledge from the evaluation and research efforts of other agencies and institutions.

The Ad Hoc Watershed Committee will continue the accumulation of knowledge during the upcoming year. The Committee will continue refining application of the best science available to select the appropriate tools to address watershed evaluation or assessment. As this information is gathered, it will be provided to the Registered Professional Foresters preparing THPs. That information will assist in development and implementation of Road Management Plans. This is consistent with the Board mandate under Section 4553 of the Public Resources Code. The complexity of this regulatory effort is not only in the science of watershed evaluation and assessment but in the “art” of translating that science into regulatory language. Regardless, the Board is continuing to put forward regulations (Interim-Rules) for the protection of salmonid species and the beneficial uses of water, which are based on the best science and protective practices available.

14 CCR § 898.2

Special Conditions Requiring Disapproval of Plan

The Board is committed to the intent to move forward with further actions to address protection of aquatic species and watersheds defined as impaired by the Board. The Board has determined there is a need to develop a Road Management Plan (RMP) setting forth how public trust resources, including water quality and fish, will be protected during the use, maintenance, construction, reconstruction, or abandonment of roads. The RMP will be allowed to become part of a THP to guide activities involving roads. There is a need to assure that once the RMP is developed that those conducting timber operations do so in accordance with the RMP. Thus, to provide compliance with the RMP, The Director is required to deny subsequent THPs submitted that rely on an RMP where non-compliance with that plan exists.

14 CCR § 923.10 [943.10, 963.10]

Road Management Plan, Goals

The Board establishes the RMP in this section and defines the goals and objectives to be achieved in the development of the plan. This section requires the RMP be prepared by a Registered Professional Forester (RPF). The rule also provides that practices differing from the standard rules of the Board for roads and landings may be utilized to address site specific conditions.

14 CCR § 923.11 [943.11, 963.11]

Content of Road Management Plan

The Board provides that if a person chooses to submit a RMP, it shall contain an evaluation, goals and objectives, operational, verification and adaptive management element. Subsection A. sets out the required contents for the evaluation element. A description of the watershed within the plan and current transportation system status and condition is required. Subsection B; sets out the required contents for the goals and objectives element. The landowners long-term desired future conditions, performance standards, and priorities for the road system must be provided. Subsection C. sets out the required information on operational elements. This information includes operations and schedules for road construction and reconstruction, road use restriction for excessively dry and wet conditions, and actions proposed to improve road conditions. Subsection D. sets out the required contents for the verification element. Requirements for a basic monitoring component for compliance and effectiveness of items specified in Subsection C. are established. There is also a requirement to provide a tracking report to review team agencies for this element. Subsection E. sets out the required contents for the adaptive management element. The preparer must provide a method to be used in updated information and operational changes to the original RMP. Progress being made towards meeting environmental goals and objectives must be provided.

14 CCR § 923.12 [943.12, 963.12]

Road Management Plan as Part of Plan

This section sets out the conditions that must be met to rely upon an RMP for compliance with the rules of the Board in the Director’s approval of a THP. It provides review team agencies with the ability to request additional time to evaluate and RMP. Preparers are encouraged to include information which may be used by other agencies that provide for programmatic environmental documents. This section provides direction on amending an RMP to take into consideration regulatory changes made after an RMP is approved by the Director.

SPECIFIC PURPOSE OF THE REGULATIONS

Protection for aquatic species from significant impacts that may result from the use, maintenance, construction, reconstruction or abandonment of roads used for timber operations as provided in this section. The regulations establish a further ability to protect, and to the greatest extent feasible, restore the beneficial uses of water within watersheds with threatened or impaired values.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The rule proposal may affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These potential extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations. There may also be additional cost associated with additional inspections.

The preparation and use of an RMP with a THP is not required but is an opportunity provided to THP submitters. As such, it is the responsibility of the timber/land owner to determine if the economic balance is in favor of proceeding under existing operational and planning requirements or to design site related actions specific to the owner's property. Although the Board staff has identified the potential for increased costs associated with the changes to the Rules, the Board staff also identified the potential for increased benefits to other sectors of business in the State. Some of the benefits derived from the change in the Rules could be contributed to both market and non-market values related to increases in anadromous fish populations, reduction in the costs of flood control, reduction in road

damage (repair costs) and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing.

The Board staff does not anticipate that the increased costs will result in a significant, statewide adverse economic impact directly affecting business, nor has it determined that it will affect the ability of California businesses to compete with businesses in other states.

(Note: cost and benefit estimates for the individual Rules are presented in the *Initial Statement of Reasons*.)

- Potential cost impact on private persons or directly affected businesses: As indicated above, the rule proposal will affect businesses and large and small landowners with an interest in the timber products industry by increasing the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations
- The Board staff anticipates that offsetting benefits will be derived from increases in recreation and commercial fishing, as well as reductions in the costs of flood control in some areas. Also, benefits will accrue from a lower level of road damage, thus improving transportation system reliability.
(Note: cost and benefit estimates for the individual Rules are similar to those referenced above and are presented in the *Initial Statement of Reasons*.)
- Significant effect on housing costs: None are known.
- Adoption of these regulations may create or eliminate jobs within California. It is estimated that the reduction in long term sustained yield resulting from the reduction in timber available for harvest could result in the loss of some 4,800 jobs over the long term. However, the increase in fish populations and enhanced recreational values that could result from the increased protection measures over the long term could result in the creation of jobs in the fishing industry and related industries over the long term, offsetting the loss of jobs in other sectors of the economy.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses

within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Mr. George Gentry
Acting Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Gentry is not available is Doug Wickizer, Chief Environmental Protection and Regulation, Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using the following styles is also available from the contact person named in this notice:

- 1) language existing before 7/01/00 is shown in PLAIN TEXT,
- 2) language being proposed as either an amendment or new section is DOUBLE-SPACED AND SINGLE UNDERLINED.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/
board_proposed_rule_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) Requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Variable Retention—2003

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following section of Title 14 of the California Code of Regulations (14 CCR):

§§ 913.4, 933.4 and 954.4 Special Prescriptions

PUBLIC HEARING

The Board will hold a public hearing starting at 9:00 A.M., on Tuesday, September 16, 2003, at the Employment Development Department, 722 Capital Mall, Sacramento, California. At the

hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 15, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: George Gentry
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551, 4553 and 4561 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561.1 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PRC § 4513(b) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to give consideration to wildlife and aesthetics while achieving the goal of maximum sustainable harvest of high-quality wood products.

To achieve these goals, this rule adopts a new silvicultural method, called "Variable Retention" that preserves residual trees and structural components for functional habitat for wildlife that use the forest. Specifically, the Variable Retention rule is designed to accomplish two objectives: 1) retain individual trees or groups of trees in order to maintain structural diversity over the area of the harvest unit; and 2) ensure the retention of structural elements such as snags, down logs, biological legacies. Other benefits result from this silvicultural method. By leaving components of the forest in-place, there is often a reduction in the adverse visual impact when compared to other intensive harvesting methods such as clearcutting.

Unlike typical silvicultural systems, named after the primary method of regeneration, the objective of the variable retention system is to retain structural elements of the existing stand over the harvested area and provide continuity of forest structures and elements. Variable retention systems follow nature's model by retaining part of the forest after harvest. It recognizes the role of structural complexity in forest ecosystem function and biological diversity.

The system is also flexible, providing a range of retention that may be prescribed while still meeting its criteria. In certain situations, this retention of parts of the forest would suggest small clumps or individual mature trees scattered over the entire harvest area while in others, it might require multiple harvesting passes over the same area spanning many years, eventually removing most trees. The system's purpose is to address a wider array of forest management goals as an alternative to conventional systems that tend to focus on economic harvest returns along with the regeneration and growth of the next crop of trees. It attempts to optimize a mix of forest values at the stand level without maximizing any single resource such as productivity.

The proposed regulation is designed to provide options for Timber Harvest Plan preparers with regard to meeting the need of special habitat and biological legacies in all Forest Practice Districts of California.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None

- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board has made an initial determination that there will be no statewide adverse financial impacts on a representative private persons or businesses in reasonable compliance with the proposed action. Businesses conducting timber operations already have a variety of silvicultural methods available as specified in Article 3, Sub chapter 4, 5, & 6 of 14 CCR. When businesses choose the Variable Retention silvicultural method, the Board has determined that the potential cost for this regulation to businesses would be minor and could be offset by benefits gained.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. Small businesses conducting timber operations already have a variety of silvicultural methods available as specified in Article 3, Sub chapter 4, 5, & 6 of 14 CCR. When businesses choose the Variable Retention silvicultural method, the Board has determined that the potential cost for this regulation to small businesses would be none to minor and could be offset by benefits gained.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the

purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: George Gentry
Acting Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Gentry is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/
board_proposed_rule_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as

revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 22. DEPARTMENT OF CHILD SUPPORT SERVICES

NOTICE OF PROPOSED ACTION

R-16-03-E

Review and Adjustment of Support Orders

Proposed Permanent Regulations

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) has adopted these regulations on an emergency basis effective May 1, 2003; and now proposes to adopt them as permanent regulations amending Division 13 of Title 22 of the California Code of Regulations commencing with Section 115500. These regulations specify procedures necessary for the administration of the child support enforcement program in the area of review and adjustment of child support orders.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Review and Adjustment of Child Support Orders

42 USC, Section 666(a)(10) requires states to have procedures in effect for the review and adjustment of child support orders. More specifically, this law requires the following: 1) Procedures to review and, if appropriate, adjust child support orders at least every three years at the request of either parent, 2) notification not less than once every three years informing parents of the right to request a review and, if appropriate, adjustment of a child support order, 3) review and, if appropriate, adjustment of any child support order if the amount of the order differs from the amount awarded in accordance with the guidelines and, 4) procedures to contest any adjustment.

45 CFR, Section 302.70 provides the State Plan requirements and required State laws for the administration of the child support program. Section

302.70(a)(10) requires state plans to include procedures for the review and adjustment of child support orders.

45 CFR, Section 303.4 provides the standards for program operations for the establishment of support obligations. Section 303.4(c) requires the periodic review and adjustment of all child support orders pursuant to Section 303.8.

45 CFR, Section 303.8 implements 42 USC, Section 666(a)(10) by requiring the following with regard to the review and adjustment of child support orders: 1) States must have in effect a process for the review and adjustment of child support orders including a process for challenging a proposed adjustment; 2) Parents subject to a child support order must be notified not less than once every three years of the right to request a review of the order; 3) States may establish a standard for determining if a change of circumstances warrants an adjustment of the child support order; 4) The need to provide health care for the child must be considered as a valid reason to adjust the order; 5) A 180-day timeframe in which to conduct the review and adjust the order.

Section 1013, Code of Civil Procedure provides the requirements for process of service by mail or facsimile. This section also provides appropriate timeframes for completion of service within California, outside of California, and outside the United States.

Section 3680.5, Family Code requires local child support agencies to monitor child support cases and seek modifications as necessary.

Section 3763(b), Family Code states that the health insurance coverage assignment ordering health insurance coverage may be modified at any time by the court.

Section 4055, Family Code provides the statewide uniform guidelines for determining child support.

Section 4062, Family Code defines additional support and allows the courts to include this additional support for the children to be paid for specific expenses such as child care costs.

Section 4065, Family Code allows stipulated agreements between both parties to a child support order. This section outlines the conditions for stipulated agreements.

Section 4071, Family Code allows income deductions for parents experiencing financial hardship and provide examples of evidence of financial hardship.

Section 17400.5, Family Code requires local child support agencies to file a motion to modify current child support orders for disabled obligors who meet the Social Security Income resource test, and are receiving Supplemental Security Income/State Supplementary Payments or, but for excess income, would be eligible to receive these benefits.

Section 17401.5, Family Code requires local child support agencies to provide notice of, and information about child support state hearings and the complaint resolution process.

Section 17406(e), Family Code requires local child support agencies to serve a copy of any complaint for support on recipients of support services. The notice shall accompany the complaint that informs the recipient that the local child support agency may enter into a stipulated order resolving the complaint, and that the recipient must assist the prosecuting attorney, by sending all information on the noncustodial parent's earnings and assets.

Section 17406(g), Family Code requires local child support agencies to notify child support recipients of every order established or modified by the local child support agency by sending a copy of the order to the recipient. The notice shall be made within the time specified by federal law after the order has been filed.

Section 17432, Family Code specifies that the court may relieve the defendant from any part of a judgment or order that is based on presumed income or may set aside the order if the defendant's income was substantially different for the period of time during which the judgment was effective compared with the income the defendant was presumed to have.

Section 17516, Family Code specifies that public social service benefits may not be used to satisfy a support obligation.

22 CCR, Division 13, Section 113100 provides the locate requirements and responsibilities of the local child support agencies in locating noncustodial parents.

22 CCR, Division 13, Section 118203 provides the case closure criteria for child support. Included in the criteria for case closure is incarceration or institutionalization of the obligor which results in the obligor being unable to pay support for the duration of the child's minority or the obligor having a medically verified total and permanent disability with no evidence of support potential and no income or assets available to the noncustodial parent which could be levied or attached.

These regulations interpret, make specific, or implement the state and federal laws and regulations cited above by 1) providing the specific requirements for notifying parents of the right to request a review and, if appropriate, adjustment of child support orders; 2) providing the specific requirements for conducting reviews and adjustments; and 3) providing specific timeframes for conducting reviews and adjustments of child support orders.

These regulations will adopt the following Chapter into Title 22, California Code of Regulations:

Chapter 5. Review and Adjustment of Child Support Orders.

- Section 115500 was adopted to specify the notification requirements for the right to request a review and adjustment.
- Section 115510 was adopted to specify the general requirements for conducting a review and adjustment.
- Section 115520 was adopted to specify the required timeframes for conducting a review and adjustment.

AUTHORITY AND REFERENCE CITATIONS

AUTHORITY: Sections 17306, 17310 and 17312, of the Family Code.

REFERENCE: Section 1013, Code of Civil Procedure; Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17401.5, 17406(e) and (g), 17432, and 17516 Family Code; 42 U.S.C. 666(a)(10); 45, Code of Federal Regulations, Sections 302.70(a)(10), 303.4(c), and 303.8.

PUBLIC COMMENT PERIOD

Written public comments presenting statements, arguments, or contentions relating to the text of the proposed regulations will be accepted for a period of forty-five (45) days beginning on August 1, 2003 and ending at 5 p.m. on September 15, 2003. Public comments will be accepted by any of the following means:

1. Mailed to:
Dept. of Child Support Services
Attn: Regulations Coordinator
P.O. Box 419064
Rancho Cordova, CA 95741-9064
2. Faxed to:
Dept. of Child Support Services
Attn: Regulations Coordinator
(916) 464-5069
3. E-mailed to the Regulations Coordinator:
Lucila.Ledesma@dcss.ca.gov

PUBLIC HEARING

No public hearing is scheduled. Pursuant to the provisions of Government Code Section 11346.8, any interested party may request that a public hearing be scheduled. The request must be in writing and received at the above addresses for the DCSS Regulations Coordinator no later than fifteen (15) days prior to the close of the public comment period.

CONTACTS

Copies of documents and general information regarding this rulemaking may be secured by contacting Lucila Ledesma the Regulations Coordinator at 916-464-5087.

In case you are unable to reach the Regulations Coordinator, the DCSS alternative contact person for general information about this rulemaking is Christina Barajas at 916-464-5181.

If you have a substantive question regarding the content of this rulemaking, you may contact Michele Carotti, Supervisor of the Case Management Enforcement Policy Unit at 916-464-5055.

HOW TO GET COPIES OF RULEMAKING DOCUMENTS

Copies of the full text of the proposed regulations, an initial statement of reasons, and all information on which this rulemaking is based may be secured from the DCSS Regulations Coordinator at the above addresses. Some of these documents are also available on the Department's public website at www.childsup.cahwnet.gov/.

The full text of a regulation changed pursuant to Government Code Section 11346.8 will be available for at least fifteen (15) days prior to the date on which DCSS adopts the resulting regulation. During that period, it may also be secured from the DCSS Regulations Coordinator at the above addresses.

Once the final statement of reasons becomes available it may also be secured from the contact persons identified above or from the DCSS public website at www.childsup.cahwnet.gov/.

IMPACT ON INDIVIDUALS AND BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These regulations impact the cooperation between the Department and local child support agencies and between local child support agencies and other county administrative departments.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small businesses. Small business would not be required to comply with or enforce these regulations nor are they expected to incur either benefits or detriments from them.

LOCAL MANDATE

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

- A. Fiscal Effect on Local Government: None.
- B. Cost or Savings to Any State Agency: None.
- C. Cost or Savings in Federal Funding to the State: None.
- D. Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

IMPACT ON HOUSING COSTS

The Department has determined that these regulations will have no impact on housing costs.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these regulations.

TITLE 22. DEPARTMENT OF SOCIAL SERVICES

ORD #0503-12

Item #5 Foster Youth Personal Rights

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 17, 2003 as follows:

September 17, 2003
State Office Building #9
744 P Street, Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The CDSS will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on September 17, 2003.

The CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are also available online at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief
Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814
TELEPHONE: (916) 657-2586
TELEFAX: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Community Care Licensing, Title 22, Division 6, Chapter 1—General Licensing Requirements, Section 80072 (Personal Rights); Chapter 4—Small Family Home Regulations, Section 83072 (Personal Rights); Chapter 5—Group Home Regulations, Section 84072 (Personal Rights); Chapter 5, Subchapter 1—Community Treatment Facility Regulations, Section 84172 (Personal Rights); Chapter 5, Subchapter 2—Care for Children Under the Age of Six Years, Section 84272 (Personal Rights).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations do not contain foster youth personal rights provisions of Assembly Bill (AB) 899, (Chapter 683, Statutes of 2001) in all children's residential program regulations. This includes group homes, small family homes and community treatment facilities.

These proposed Community Care Licensing Division regulations amend specific foster youth personal rights regulations in Title 22, Division 6, Chapter 1, General Licensing Requirements; Chapter 4, Small Family Home Regulations; Chapter 5, Group Home Regulations, Chapter 5, Subchapter 1—Community Treatment Facility Regulations; and Chapter 5, Subchapter 2—Care for Children Under the Age of Six Years of the California Code of Regulations to ensure that certain provisions of Assembly Bill (AB) 899, (Chapter 683, Statutes of 2001) are incorporated in all children's residential programs including group home, small family home and community treatment facility regulations.

AB 899 also adds Welfare and Institutions Code Section 16001.9 to require, in part, that the Department ensure that 21 enumerated personal rights are uniformly incorporated into the existing protected rights of foster children. Additionally, AB 899 amends Health and Safety Code Section 1530.91 to require children's residential care providers to post a listing of all foster youth rights or provide a developmentally appropriate orientation session, as applicable, for each child residing in foster care.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies, county welfare departments, or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that the proposed regulations will affect small businesses.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, 10604 and 11369. Subject regulations implement and make specific Welfare and Institutions Code Section 16001.9 and Health and Safety Code Sections 1501, 1528, 1530.8, 1530.91, and 1531.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez
(916) 657-2586

Backup: Steve Smalley
(916) 657-2586

CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Charles Thomas
(916) 322-3177

Backup: Connie Fanos
(916) 324-4318

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Emergency Medical Services Authority (EMS Authority) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The EMS Authority will hold a public hearing to permit interested persons the opportunity to present statements, arguments, written materials or contentions relevant to regulatory action. The public hearing will be held on Monday, September 29, 2003 at 9:30–11:30 a.m. at the EMS Authority, 1930 9th Street, Sacramento, CA 95814. The facility to be used for the public hearing is accessible to persons with mobility impairments. Persons with sight or hearing impairments are asked to write or call Sandy Salaber at the address above or phone her at (916) 322-4336 to make special arrangements, if necessary. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The EMS Authority requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the EMS Authority. The written comment period closes at **5:00 p.m. on September 29, 2003**. The EMS Authority will consider only comments received at the EMS Authority by that time. Submit comments to:

Sandy Salaber
Emergency Medical Services Authority
1930 9th Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Division 2.5 of the Health and Safety Code Section 1797.103, authorizes the EMS Authority to adopt the proposed regulations. These regulations are to implement, interpret, and make specific Health and Safety Code Sections 1797.174.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The EMS Authority proposes to adopt Sections 100400–100405 in the California Code of Regulations Title 22 Division 9. These sections concern the Evaluation and Quality Improvement Program (EQIP). The purpose of the proposed regulations is to provide a model for the development and implementation of an EQIP for the delivery of EMS for EMS service providers, Base Hospitals, local EMS agencies, the EMS Authority, and their respective personnel. The document, *Emergency Medical Services System Evaluation and Quality Improvement Program Model Guidelines (EMSA #164)* will be incorporated by reference in the regulations. This is a model program, which will develop over time with individual variances based on available resources.

Governmental decision makers, sponsors, and consumers need objective evidence that they are receiving value and quality for the cost of EMS. The statewide EMS system and its participants require objective feedback about performance that can be used internally to support quality improvement efforts and externally to demonstrate accountability to the public governing boards and other stakeholders. The primary goal of each EQIP shall be to ensure continued high quality patient care.

DISCLOSURE REGARDING THE PROPOSED ACTION

The EMS Authority has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: The EMSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

Small Business Determination

The EMS Authority has determined that the proposed regulation does not affect small business. The regulations will assist EMS professionals in the development and implementation of a program addressing: organizational structure, data collection and reporting, evaluation of EMS system indicators, methods for improvement and training and education.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the EMS Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the

action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The EMS Authority invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Please direct inquiries concerning the substance of the proposed action or requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

Bonnie Sinz, RN
Emergency Medical Services Authority
1930 9th Street
Sacramento, CA 95814
Telephone: (916) 322-4336

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The EMS Authority will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. The rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and after considering all timely and relevant comments received, the Commission on Emergency Medical Services may approve for adoption and the EMS Authority may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the EMS authority will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before adoption of the regulations as revised. If modifications are made which are substantial to the originally proposed text, the EMS authority will make the modified text, with the changes clearly indicated, available to the public for at least 45 days before adoption of the regulations as revised. Please send requests for copies of any modified regulations to the attention of Sandy Salaber at the address indicated above. The EMS Authority will accept written comments on the modified regulations for 15 days and 45 days for substantial modifications after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Sandy Salaber at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.emsa.ca.gov.

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Emergency Medical Services Authority (EMS Authority) proposes to adopt the proposed EMT-I regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The EMS Authority will hold a public hearing to permit all interested parties the opportunity to present statements, arguments, written materials, or contentions relevant to the proposed action described in the informative digest. The public hearing will be held on:

Date: September 29, 2003
Time: 12:30 p.m. to 2:00 p.m.
Location: EMS Authority
1930 9th Street
Sacramento, CA 95814

The facility to be used for the public hearing is accessible to persons with mobility impairments. Persons with sight or hearing impairments are asked to write Michael Conley at the address above or call Mr. Conley at (916) 322-4336 to make special arrangements, if necessary.

WRITTEN COMMENT PERIOD

Interested persons are invited to submit written comments on the proposed regulatory action to the EMS Authority. The written comment period end closes at **5:00 p.m. on September 29, 2003**. The EMS Authority will consider only comments received at the EMS Authority office by that time. Submit comments to:

Michael Conley, Basic Life Support Coordinator
EMS Authority
1930 9th Street
Sacramento, CA 95814
Telephone: (916) 322-4336
Fax: (916) 324-2875
E-mail: mconley@emsa.ca.gov

AUTHORITY AND REFERENCE

The Health and Safety Code, Section 1797.107 authorizes the EMS Authority to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.63, 1797.109, 1797.170, 1797.176, 1797.208, and 1797.210 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code, Section 1797.107 authorizes the EMS Authority to adopt, amend, or repeal such rules and regulations as may be reasonable and proper to carry out the purposes and intent of this Division of the Health and Safety Code and to enable the authority to exercise the powers and perform the duties conferred upon it by this division not inconsistent any of the provisions of any statute or this state. Health and Safety Code, Section 1797.170 (a) also authorizes the EMS Authority to establish minimum standards and promulgate regulations for the training and scope of practice for EMT-I. The California Code of Regulations, Title 22, Division 9, Chapter 2 specifies training, certification, and scope of practice requirements for Emergency Medical Technician-Is.

These proposed regulations are intended to clarify existing regulations and to bring California EMT-I issues pertaining to training and certification testing in-line with national standards. The objectives for these proposed regulations have been established through the Vision Implementation Project as well as recommendations from the National Highway and Traffic Safety Administration's Assessment of Emergency Medical Services in California. The EMT-I Task Force, which was made up of a cross section of California EMS constituents, also made signification recommendations for these proposed regulations.

Some of the objectives that were met in these proposed regulations are:

1. To have a single, statewide EMS Authority approved EMT-I written certifying examination as well as a single, statewide EMS Authority approved skills certifying examination.
2. To adopt the United States Department of Transportation's Emergency Medical Technician—Basic National Standard Curriculum.
3. To standardize and clarify EMT-I certification and recertification processes.
4. To standardize continuing education criteria.
5. To have consistency in terminology with national standards.
6. To address optional skills that meets the needs of various communities including rural communities.

The EMS Authority also proposes to incorporate by reference Form EMSA-SCV (07/03) in order for

EMT-Is renewing their EMT-I certification to have documented verification of skills competency in certain skills selected by the EMT-I Task Force.

DISCLOSURES REGARDING THE PROPOSED ACTION

The EMS Authority has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency:
 1. The California Highway Patrol (CHP) has an EMT-I training program approved through the EMS Authority and is authorized to certify their EMT-Is internally. The CHP may experience both an additional cost and a cost savings.
 - (1) First the CHP may experience an additional cost for their EMT-Is to take the single, statewide EMS Authority approved EMT-I certifying examination. A passing score on this examination is required for the initial EMT-I certification only and will not be required for recertification. The cost for examination is a minimum of \$20.00, additional costs may be charged by an organization to administer the examination. Examination administration costs will vary throughout the state depending on the organization that administers the examination and what their overhead costs are.
 - (2) Second, the CHP may experience cost savings in the area of maintain and update a curriculum that contains the required course content for California because these proposed regulations adopt the EMT-Basic National Standard Curriculum for EMT-I training. The CHP may also experience a cost savings in the area of maintaining and updating their EMT-I certification examination because these regulations propose to adopt a single, statewide EMS Authority approved EMT-I certifying examination. The CHP will not have to legally defend the development of the examination.
 2. The Office of the State Fire Marshal, which also has an approved EMT-I training program may experience a cost savings in two areas:
 - (1) These proposed regulations adopt the EMT-Basic National Standard Curriculum for EMT-I training which may reduce and/or eliminate costs for the Fire Marshal's Office to maintain and update a curriculum that contains the required course content for California. The current EMT-I regulations contain an outdated section that contains

required course content that is inconsistent with the National Standard EMT-Basic Curriculum.

- (2) These proposed regulations also adopt a single statewide EMT-I certifying examination which could result in a cost savings to the Fire Marshal's Office because the Fire Marshal's Office will not need to maintain and/or update a written certifying examination or legally defend the development of the examination.

- Costs to any local agency or school district which must be reimbursed in accordance with the Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California;
 - (2) create new businesses or eliminate existing businesses with California; or
 - (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

Small Business Determination

The EMS Authority has determined that the proposed regulation affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance the Government Code Section 11346.5, subdivision (a)(13), the EMS Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The EMS Authority invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Michael Conley, RN
Basic Life Support Coordinator
EMS Authority
1930 9th Street
Sacramento, CA 95814
e-mail: mconley@emsa.ca.gov
Phone: (916) 322-4336
Fax: (916) 324-2875

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Conley at the above address.

AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATIONS

The EMS Authority will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. The rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the National Highway Safety Administration's Assessment of Emergency Medical Services in California and the Vision Implementation Project's Making Vision a Reality, A Midterm Report. Copies may be obtained by contacting Mr. Conley at the address above.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

Following the public hearing and after considering all timely and relevant comments received, the Commission on Emergency Medical Services may approve for adoption and the EMS Authority may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the EMS Authority will make the modified text, with the changes clearly indicated, available to the public for at least 45-days before adoption of the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michael Conley at the address indicated above. The EMS Authority will accept written comments on the modified regulations for 15-days and 45-days for substantial modifications after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michael Conley, RN at the above address.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, the National Highway Traffic Safety Administration's Assessment of Emergency Medical Services in California, and the Vision Implementation Project's Making Vision a Reality, A Midterm Report can be accessed through the EMS Authority's website at www.emsa.ca.gov.

**TITLE 22. EMERGENCY MEDICAL
SERVICES AUTHORITY**

NOTICE OF REGULATORY ACTION

The Emergency Medical Services Authority (EMS Authority) is proposing to amend the Emergency Medical Technician-Paramedic (Paramedic) Regulations, Chapter 4, Division 9, Title 22, California Code of Regulations (CCR), as described in the Informative Digest. The EMS Authority is also proposing in this same rulemaking to adopt Chapter 11, EMS Continuing Education, for inclusion in Division 9, Title 22, CCR, as described in the Informative Digest.

WRITTEN COMMENTS AND
AGENCY CONTACTS

Interested parties are invited to submit written comments to the proposed regulatory action during a 60-day written comment period that is provided from August 1, 2003 through September 29, 2003. The written comment period closes at 5:00 p.m. on September 29, 2003, and comments received after that date will not be accepted. Written comments can be mailed, faxed, or e-mailed to either of the EMS Authority staff listed below. The rulemaking file for the proposed regulatory action is available for review from 9 a.m. until 4 p.m., Monday through Friday, at the EMS Authority located at 1930—9th Street, Sacramento, California 95814. To schedule a review of the rulemaking file, submit written comments, or obtain answers to questions on the substance of the regulations, contact the following EMS Authority staff:

Primary Contact

Nancy Steiner
Chief, EMS Personnel Standards & Licensing
EMS Authority
1930 9th Street
Sacramento, CA 95814
e-mail: nancy.steiner@emsa.ca.gov
Phone: (916) 322-4336
FAX: (916) 324-2875

Backup Contact

Connie Telford
Staff Services Analyst
EMS Authority
1930 9th Street
Sacramento, CA 95814
connie.telford@emsa.ca.gov
Phone: (916) 322-4336
FAX: (916) 324-2875

PUBLIC HEARING

The EMS Authority will hold a public hearing to permit interested parties the opportunity to present statements, arguments, and written comments relevant to the regulatory action. The public hearing will be held on Monday, September 29 from 2:30 p.m. to 4:30 p.m. at the EMS Authority located at 1930—9th Street, Sacramento, California 95814.

**AVAILABILITY OF TEXT OF INITIAL
STATEMENT OF REASONS AND TEXT OF
PROPOSED REGULATIONS**

Copies of the exact language of the proposed changes to the regulations, indicated by underline for additions and strikeout for deletions and written in plain English, the Initial Statement of Reasons, the report from the National Highway Traffic Safety Administration entitled Assessment of Emergency Medical Services in California, and the Minutes of the Paramedic Task Force meetings, and other information will be available on the EMS Authority website at www.emsa.ca.gov, at the office of the EMS Authority at the address listed above, and at the public hearing noted above. A copy of the Commission on EMS/EMS Authority vision document entitled, EMS Vision Update 2000, is available for review at the office of the EMS Authority and will be available for review at the public hearing.

AUTHORITY AND REFERENCE

Health and Safety Code (H&SC) Section 1797.107 authorizes the EMS Authority, upon approval of the Commission on Emergency Medical Services, to adopt, amend or repeal regulations, which would implement, interpret, or make specific the provisions of H&SC Division 2.5, for the development and maintenance of emergency medical services (EMS) in California. H&SC Section 1797.172 authorizes the EMS Authority to develop standards, policies and procedures for the training, scope of practice, licensure, and relicensure of paramedics.

H&SC Section 1797.174 requires the EMS Authority, in consultation with the Commission on EMS and other affected constituencies to develop statewide guidelines for continuing education (CE) courses and approval of CE courses for paramedics and for quality improvement systems which monitor and promote

improvement in the quality of care provided by paramedics statewide. In addition, H&SC Section 1797.175 requires the EMS Authority to establish the standards for CE and to designate the examinations for the certification and recertification of all prehospital personnel. H&SC Section 1797.176 requires that the EMS Authority establish the minimum standards for the policies and procedures necessary for medical control of the EMS system.

H&SC Sections 1798.200 and 1798.204 also authorize the EMS Authority to deny, suspend, or revoke any paramedic license or to place a paramedic license holder on probation for specific actions and to establish guidelines for the proceedings for disciplinary action.

**INFORMATIVE DIGEST/PLAIN ENGLISH
POLICY STATEMENT OVERVIEW**

The EMS Authority is proposing to amend the Emergency Medical Technician-Paramedic (Paramedic) Regulations contained in the California Code of Regulations, Title 22, Division 9, Chapter 4, Sections 100135–100180. These regulations specify the training, scope of practice, licensure, relicensure, continuing education, local accreditation and disciplinary actions for paramedics pursuant to Division 2.5 of the H&SC. The EMS Authority is also proposing to remove most of the continuous quality improvement provisions and the continuing education provisions from the Paramedic Regulations.

Through this regulatory process, a new Chapter 11 is being proposed for Division 9, Title 22, CCR that will include the continuing education provisions for all three levels of EMS personnel (i.e., Emergency Medical Technician-I, Emergency Medical Technician-II, and Emergency Medical Technician-Paramedic), since many of the provisions are the same for all three levels. Through a separate regulatory action that is being conducted at the same time as this regulatory action, the continuous quality improvement provisions will be proposed for implementation in a new Chapter 12 for Division 9, Title 22, CCR that will address the continuous quality improvement provisions for all levels of EMS personnel provider agencies and other affected entities such as the EMS Authority, local EMS agencies, and base hospitals/alternate base stations.

In amending the regulations, the EMS Authority is also proposing to delete Section 100155 because it is no longer necessary and proposing to delete Article 6, Sections 100166 through 100170 because these sections are being revised and moved into the new, proposed Chapter 11 on EMS Continuing Education.

The objectives in amending these regulations are the following:

- Update the regulations to meet national standards for training paramedics,
- Improve the provisions for continuous quality improvement and continuing education,
- Specify the designated paramedic licensure examination,
- Update the paramedic basic scope of practice,
- Provide clarification on the accreditation requirements for training programs,
- Update the requirements for an approved paramedic training program,
- Incorporate a mechanism for due process for paramedic training programs,
- Update the requirements for paramedic training program applicants,
- Increase the minimum hours for the didactic hours for paramedic training,
- Update the paramedic licensure/re-licensure requirements,
- Implement a provision for temporary paramedic licenses,
- Implement a process for the voluntary deactivation of a paramedic license,
- Update the paramedic accreditation provisions,
- Make grammatical changes and renumber Articles and Sections for consistency.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The EMS Authority has determined that the proposed amendments to the regulations do not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT

The EMS Authority has determined that there will be no costs or savings to any state agency or school district by the proposed amendments to the regulations. The EMS Authority has determined that there may be a cost to local emergency medical services agencies (county or region of counties) that operate a paramedic training program because the EMS Authority is proposing to increase the required minimum number of didactic training hours from 320 to 450. However, some paramedic training programs already exceed the 320 hours of didactic training in order to adequately teach the required curriculum. In addition, any increase in the cost of a paramedic training program can be recovered by increasing the amount of the student fees.

The EMS Authority has also determined that there are no other non-discretionary costs imposed upon local agencies by the proposed amendments to the regulations. There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4. It is permissive and not mandatory for counties to have an emergency medical services program (H&SC Section 1797.200).

IMPACT ON BUSINESSES

The EMS Authority has made an initial determination and declares that the proposed amendments to the paramedic regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The EMS Authority has relied on discussions with representatives of EMS constituent groups in making this determination. These groups include representatives of paramedic training programs, paramedic unions, private and public ambulance services, nurse unions, law enforcement agencies, state agencies that employ paramedics, local EMS agencies, physician groups, continuing education providers, and local EMS medical directors.

COST IMPACTS TO REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

The EMS Authority has determined that the cost to representative private persons or businesses would be minimal. The proposed amendment of an additional 130 hours to the didactic portion of the paramedic training program and the requirement that paramedic training programs participate in the local EMS agency EMS system evaluation and quality improvement program may increase the cost of operating a paramedic training program, and this cost would probably be passed on to the students of the program. However, many of the 28 paramedic training programs in the state already exceed the current minimum didactic hours in their program in order to adequately cover the required curriculum.

SMALL BUSINESS IMPACT STATEMENT

The EMS Authority has determined that the proposed amendments to the regulations may affect small business, specifically paramedic training programs as noted above.

POTENTIAL ECONOMIC EFFECT

The EMS Authority has made an assessment that the proposed revisions to the regulations will not create or eliminate jobs in California, will not create new businesses or eliminate existing businesses in California, and will not affect the expansion of businesses currently doing business in California.

FEDERAL FUNDING TO THE STATE

The EMS Authority has determined that the proposed revisions to the regulations will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING

The EMS Authority has determined that the proposed revisions to the regulations will not have a fiscal impact on housing costs.

CONSIDERATION OF ALTERNATIVES

The EMS Authority must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. Therefore, the EMS Authority invites interested persons to present statements or arguments during the public comment period or at the public hearing noted above with respect to alternatives to the proposed regulation revisions.

FINAL ADOPTION OF REGULATIONS

Following the public hearing, the Commission on Emergency Medical Services may approve for adoption the proposed revisions to the Paramedic Regulations as described in this notice. If approved, copies of the regulations as finally adopted will be sent to all persons on the EMS Authority's mailing list. In addition, a copy of the Final Statement of Reasons will be available on the EMS Authority's website, www.emsa.ca.gov, or by calling or writing the EMS Authority's contacts as identified in this notice.

However, if as a result of public comment (oral or written), substantial changes to the regulations are deemed appropriate, copies of the changes will be sent to all persons on the EMS Authority's mailing list, all persons who testified at the public hearing or who submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation revisions. The EMS Authority will then accept written comments, arguments, or evidence for a period of at least 15 days after the date on which the changes were made available.

If adopted, the regulations will appear in the California Code of Regulations, Title 22, Division 9, Chapter 4 and Chapter 11.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION

REGARDING PROPOSED AMENDMENTS TO
THE CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2,
CALIFORNIA BUILDING CODE

SEISMIC UPDATES TO STRUCTURAL PROVISIONS

Notice is hereby given that the California Building Standards Commission (CBSC) is proposing to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The CBSC is proposing building standards related to seismic updates to structural provisions.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from August 1, 2003 until 5:00 PM on September 15, 2003.

Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Attention: Stanley T. Nishimura, Executive Director

Written Comments may also be faxed to
(916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health & Safety Code Section 18934.5. The purpose of these building standards is to implement, interpret, and make specific the provisions of 18934.5. The California Building Standards Commission is proposing this regulatory action based on 18928, & 18934.5

INFORMATIVE DIGEST

Summary of Existing Laws

California Building Standards Law (Health and Safety Code Section 18900–18949.6) establishes the California Building Standards Commission to oversee the adoption and publications of building standards for state regulated occupancies in California. Further, existing law requires any state agency that proposes

and/or adopts a building standard to submit the building standard to the Commission for approval and publication in the California Building Standards Code. Specifically pertaining to this regulatory action, Health and Safety Code section 18934.5, authorizes the Commission to adopt building standards providing the minimum standards for the design and construction of state-owned buildings, buildings constructed by the Regents of the University of California to the extent permitted by law, and buildings constructed by the Chancellors of the State University, where no other state agency has the authority.

Summary of Existing Regulations

Existing regulations pertaining to this regulatory action are contained in the 2001 California Building Code (California Code of Regulations, Title 24, Part 2), which is based upon the 1997 Uniform Building Code of the International Conference of Building Officials. The regulations being modified by this action are contained in Chapters 16, 17, 19, 22, and 23. Chapter 16 contains the structural design requirements; Chapter 17 contains structural testing and inspection requirements; Chapter 19 contains the concrete standards; Chapter 22 contains the steel construction standards; and, Chapter 23 contains the wood construction standards.

Summary of Effect

This regulatory action makes some of the more critically needed updates to California standards. These update are currently accepted, nationally recognized standards and engineering principles, which have been determined to be lacking in the California Building Code.

Comparable Federal Statute or Regulations

FEMA: Federal Emergency Management Agency standards.

NEHRP—National Earthquake Hazard Reduction Program standards

Small Business Affect

This regulatory action may or may not have an affect on small businesses, as the standards contained in building codes offer designers and owners optional construction techniques and materials. Also the size and design of a building has a bearing upon the affect, which is controlled by the designer and owner.

This enactment of standards is no different than adoption of a new cycle of codes. These standards are not different from what most states enforce in the United States. This is an improvement in standards that will provide greater structural safety in active seismic regions. These will apply only to state-owned buildings, buildings constructed by the Regents of the University of California to the extent permitted by law, and buildings constructed by the Chancellors of the State University.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to this proposed action.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The California Building Standards Commission has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The CBSC has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18928, & 18934.5.

Therefore, the CBSC's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

**COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS**

The CBSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The CBSC has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California. **No affect**
- The creation of new businesses or the elimination of existing businesses within the State of California. **No affect**
- The expansion of businesses currently doing business with the State of California. **No affect**

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CBSC has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Michael Nearman or Tom Morrison
(back-up person)**

**2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Michael Nearman, Code Analyst
California Building Standards Commission
(916) 263-5888
Michael.nearman@dgs.ca.gov
(916) 263-0959**

**TITLE 24. OFFICE OF THE
STATE FIRE MARSHAL**

**REGARDING PROPOSED REGULATIONS TO
THE CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PARTS 2 & 9
CALIFORNIA BUILDING CODE (CBC) &
CALIFORNIA FIRE CODE (CFC)**

**REGARDING GROUP R,
DIVISION 2—BEDRIDDEN
RESIDENTIAL OCCUPANCIES**

NOTICE IS HEREBY GIVEN that the California Building Standards Commission (CBSC) on behalf of the State Fire Marshal proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The Office of the State Fire Marshal (SFM) is proposing to amend various Chapters, Articles and Sections of the 2001 California Building and Fire Codes regarding regulations relating to the fire and life safety requirements in residential care facilities licensed for six or less clients of which one may be bedridden as determined by the Department of Social Services.

**PUBLIC HEARING/WRITTEN
COMMENT PERIOD**

A public hearing has not been scheduled; however, written comments will be accepted from August 8 to September 22 until 5:00 p.m. on 2003. Please address your comments to Michael L. Nearman, California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833. Written comments may also be faxed to (916) 263-0959 or E-mailed to cbsc@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code § 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code § 18928.

The SFM is proposing this regulatory action pursuant to the following:

AUTHORITY

Health and Safety Code Sections 1531.3, 1566.45, 1568.0832, 13113.5 and 13143

REFERENCE

Health and Safety Code Sections 1566.45, 1568.0832, 13133 and 18949.2

INFORMATIVE DIGEST

Summary of Existing Laws

H&SC § 13143—This law requires the SFM to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather.

H&SC § 1502—This law defines "Community Care Facility" as any facility or place that provides non-medical residential care, day treatment, adult day care, or foster family agency services for children or adults who are physically disabled, mentally disabled, abused or neglected in approximately eleven different licensing categories.

H&SC § 1531.3—This law mandates that the SFM establish separate fire and panic safety standards and criteria for the evaluation of each licensing category of H&SC section 1502, the SFM shall consider the characteristics of the person served by each facility in establishing these standards and criteria.

H&SC § 1566.45—This law provides a definition of "bedridden" that shall apply to residents of residential facilities with an occupant load of 6 or less that care for children, persons who are developmentally disabled and persons with other disabilities who are not developmentally disabled.

This bill stipulates that the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, shall make the determination of bedridden status of persons with developmental disabilities, after consulting the resident's individual safety plan.

The Director of Social Services, or his or her designated representative shall make the determination

of the bedridden status of all other persons with disabilities who are not developmentally disabled.

This law mandates that bedridden persons may be admitted to, and remain in, residential facilities that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions is met:

(1) The fire safety requirements are met.

(2) Alternative methods of protection are approved.

H&SC § 1568.0832—This law provides a definition of "bedridden" that shall apply to residents of residential facilities with an occupant load of 6 or less that care for children, persons who are developmentally disabled and persons with other disabilities who are not developmentally disabled.

This bill stipulates that the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, shall make the determination of bedridden status of persons with developmental disabilities, after consulting the resident's individual safety plan.

The Director of Social Services, or his or her designated representative shall make the determination of the bedridden status of all other persons with disabilities who are not developmentally disabled.

This law mandates that bedridden persons may be admitted to, and remain in, residential facilities that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions is met.

H&SC § 13113—This law requires the SFM to adopt regulations requiring the installation of automatic fire devices activated by combustion other than heat in all facilities which provide 24-hour per day care for 6 or fewer persons, and which do not have an automatic sprinkler system.

H&SC § 13114—This law requires the SFM with advice from the State Board of Fire Services to adopt regulations and standards as necessary to control the quality and installation of fire alarm devices sold in this state.

H&SC § 13133—This law requires the SFM to develop and adopt regulations that establish new occupancy classifications and specific fire standards appropriate for residential facilities that provide non-medical care for persons in need of personal services essential for sustaining the activities of daily living or for the protection of the individual and residential care facilities for the elderly.

H&SC § 13143—The SFM shall prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or

structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather.

H&SC § 18949.2(b)—The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy in the development of the state's codes related to fire and life safety.

Summary of Existing Regulations of the 2001 CBC

The SFM currently adopts by reference and enforces the 2001 California Code of Regulations, Title 24, Parts 2 and 9 with California Amendments relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as a school and or for the purposes of education as defined in Health and Safety Code 13143.

Summary of Existing Regulations in the 2001 CBC:

- **Chapter 1—Administrative, Section 101 Title, Purpose and Scope, Section 101 .14.17 SFM.** This existing section provides a detailed listing of the occupancies and statutes, which outlines the SFM's statutory authority to promulgate regulations relating to fire and life safety requirements to such occupancies.
- **Chapter 2 Definitions and Abbreviations, Section 203—B.** This existing section provides a definition for bedridden person.
- **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.** This existing section provides a definition for Group R, Divisions 2.1.1 and 2.2.1.
- **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.1.** This existing section addresses the requirements for retaining clients that become temporally bedridden as determined by the department of Social Services, in a Group R, Division 2 Occupancy.
- **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.2.** This existing section indicates that any Group R, Division 2 Occupancy shall not allow bedridden clients above the first story.
- **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Sections 310.1.3, 310.1.4 and 310.1.5.** These existing sections replicate the statutory requirements under Health and Safety Code sections 13143 and 13133 regarding facilities that are licensed by Department

of Social Services and the scope of those facilities that provide nonmedical board, room and care for 6 or fewer clients.

- **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.6.** This existing section addresses the requirements for existing Residential Care Facilities and Residential Care Facilities for the Elderly that were pre-1991 CBC, may be reinspected under the original classification of Group I.
- **Chapter 4A—Special Use and Occupancy, Division II—Office of the State Fire Marshal.** This existing section addresses various special occupancies under the SFM's authority that require special or unique standards that are specifically scoped to the use and or occupancy of the structure.
- **Chapter 8—Interior Finishes, Table 8B—Maximum Flame Spread Class.** This existing table specifies the maximum material flame spread allowed per occupancy group for enclosed vertical exitways, exitways and rooms or areas.
- **Chapter 9—Fire Protection Systems, Section 904.—Fire Extinguishing Systems, Section 904.2.10—Group R, Division 2 Occupancies.** This existing section addresses the requirements for an automatic sprinkler system installed in a Group R, Division 2 Occupancy.
- **Chapter 9—Fire Protection Systems, Section 904.—Fire Extinguishing Systems, Section 904.2.10.1—Group R, Divisions 2.3 and 2.3.1 Occupancies.** This existing section addresses the requirements for the installation of an automatic sprinkler system in these occupancies.
- **Chapter 10—Means of Egress, Section 1003.3.1—Doors.** This existing section addresses the requirements for exit doors. **Section 1003.3.1.8 Type of Lock and Latch.** This existing section addresses the requirements for the type of locks or latches permitted to be installed on exit doors.

Summary of Effect to the 2001 CBC:

The mandates written into law under Sections 1569.72, 1566.45, and 1568.0832, of the Health and Safety Code are reflected in the SFM's proposed regulations to the 2001 CBC and CFC as listed below. To aid the reader in understanding these mandates of law, please see Attachment A, "*SB 1896 CHECK-LIST*." This document may be used as a side-by-side comparison with the SFM's proposed regulations.

The following amendments are proposed by the SFM:

1. **Chapter 1—Administrative, Section 101 Title, Purpose and Scope, Section 101 .14.17 SFM.** The SFM is proposing to add the statutory references of the Health and Safety Code pertaining to the SFM's

statutory authority to promulgate regulations relating to fire and life safety requirements to residential occupancies caring for bedridden persons.

2. **Chapter 2 Definitions and Abbreviations, Section 203—B.** The SFM is proposing to amend this section by bringing in the definition of a bedridden person that correlates with the definition provided in the 2001 CBC in compliance with Health and Safety Code sections 1566.45 and 1568.0832
3. **Chapter 3, USE OR OCCUPANCY, Section 310—REQUIREMENTS FOR GROUP R.** The SFM is proposing to amend section 310.1 by adding regulatory text allowing bedridden clients in the licensing categories for Group R, Division 2.1.1 and 2.2.1.
4. **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.1.** The SFM is proposing to repeal section 310.1.1. The subject matter of this existing section is being formatted to accurately reiterate the statutory requirements for retaining clients that become temporally bedridden as an exception to the amended section 310.1.2.
5. **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Section 310.1.2.** The SFM is proposing to amend this section by first, renumbering the existing section 310.1.2. to 310.1.1. Secondly, the SFM is proposing to amend this section by not permitting bedridden clients below the first story.
6. **Chapter 3—Use or Occupancy, Section 310—Requirements for Group R Occupancies, Sections 310.1.3, 310.1.4, 310.1.5 and 310.1.6.** The SFM is proposing to amend these sections by renumbering each section because section 310.1.1 is proposed to be repealed thus resulting in a disruption to the numbering sequence for these sections.
7. **Chapter 4A—Special Use and Occupancy, Division II—Office of the State Fire Marshal.** The SFM is proposing to amend this Chapter by adding a new section, Section 415A. This section addresses the requirements for alternate means of protection that a licensee may use when requesting a bedridden fire clearance from the local fire authority having jurisdiction.
8. **Chapter 8—Interior Finishes, Table 8-B.** The SFM is proposing to amend this Table by adding Group R, Division 2 Occupancies to the Table's occupancy group listing. The SFM is also adding a footnote to the table specifying that the requirements for a R-2 shall comply with the requirements as specified for Group I, Division 1.1 Occupancies regarding the maximum flame spread class of interior finishes.
9. **Chapter 9—Fire Protection Systems, Section 904.—Fire Extinguishing Systems, Section 904.2.10—Group R, Division 2 Occupancies.** The SFM is proposing to amend this section by specifically allowing bedridden persons in Group R, Division 2.1.1 and 2.2.1 Occupancies. This existing section previously required that if a bedridden person was placed in these occupancy classifications, an automatic sprinkler system is required to be installed in all Group R, Division 2 Occupancies. This new amendment will allow only one bedridden client in the facility providing the facility complies with the regulations of the CBC and CFC. Additionally, the SFM is proposing to repeal exception number 2.
10. **Chapter 9—Fire Protection Systems, Section 904.—Fire Extinguishing Systems, Section 904.2.10.1** The SFM is first proposing to repeal text that identifies the occupancy classification affected by these existing regulations as well as the text of the section addressing sprinklers in the sleeping rooms of those occupancy classifications. Secondly, the SFM is proposing to reformat the text that has been repealed from sections 904.2.10, exception 2 and 904.2.10.1. The SFM has kept the integrity of the scoping of both of the repealed sections and has reformatted it into one section. Third, the SFM has added the correct reference to the standards of the National Fire Protection Association (NFPA) 13, Installation of Automatic Sprinkler Systems.
11. **Chapter 10—Means of Egress, Section 1003.3.1—Doors, Section 1003.3.1.8 Type of Lock and Latch.** The SFM is proposing to amend this chapter by adding a new section, Section 1003.3.1.8.1. This section specifies that no type of lock or latch shall be installed on any interior door leading into a client's sleeping room.

Summary of Existing Regulations in the 2001 CFC:

- **Article 1—Administrative, Section 101 Title, Purpose and Scope, Section 101.14.17 SFM.** This existing section provides a detailed listing of the occupancies and statutes, which outlines the SFM's statutory authority to promulgate regulations relating to fire and life safety requirements to such occupancies.
- **Article 2—Definitions and Abbreviations, Section 203-B and 216-O.** This existing section provides definitions for certain terms and words that begin with the letter B and O.
- **Article 10—Fire Protection Systems and Equipment, Section 1006.2.9.** This existing section specifies the requirements regarding fire alarm systems in Group R, Divisions 2.1.1, 2.2.1, 2.3.1, and 6 Occupancies.

- **Article 10—Fire Protection Systems and Equipment, Section 1006.2.9.3.1** This existing section specifies the requirements regarding single-station smoke alarms in existing Group R Occupancies.

Summary of Effect to the 2001 CFC:

The mandates written into law under Sections 1569.72, 1566.45, and 1568.0832, of the Health and Safety Code are reflected in the SFM's proposed regulations to the 2001 CBC and CFC as listed below. To aid the reader in understanding these mandates of law, please see Attachment A, "*SB 1896 CHECK-LIST*." This document may be used as a side-by-side comparison with the SFM's proposed regulations.

The following amendments are proposed by the SFM:

- 1. Article 1—Administrative, Section 101 Title, Purpose and Scope, Section 101.14.17 SFM.** The SFM is proposing to add the statutory references of the Health and Safety Code pertaining to SFM's statutory authority to promulgate regulations relating to fire and life safety requirements to residential occupancies caring for bedridden persons.
- 2. Article 2 Definitions and Abbreviations, Section 203-B.** The SFM is proposing to amend this section by bringing in the definition of a bedridden person that correlates with the definition provided in the 2001 CBC in compliance with Health and Safety Code sections 1566.45 and 1568.0832.
- 3. Article 2 Definitions and Abbreviations, Section 216-O.** The SFM is proposing to amend this section by bringing in the definitions for Group R, Division 2.1, 2.1.1, 2.2, 2.2.1, 2.3 and 2.3.1 to correlate with the definitions in the 2001 CBC relating to these occupancy classifications.
- 4. Article 10—Fire Protection Systems and Equipment, Section 1006.2.9.1.1.** The SFM is proposing to amend this Article by adding a new section, Section 1006.2.9.1.7 which addresses the requirements for smoke alarms in Group R, Divisions 2.1.1 and 2.2.1 Occupancies housing bedridden clients.
- 5. Article 10—Fire Protection Systems and Equipment, Section 1006.2.9.3.1** The SFM is proposing to amend this section by adding an exception that specifies that smoke alarms in Group R, Divisions 2.1.1 and 2.2.1 Occupancies that house bedridden clients are to comply with the requirements of the new section, Section 1006.2.9.1.7 and not Section 1006.2.9.3.2 as required for occupancies that do not house bedridden clients.

**COMPARABLE FEDERAL STATUTE
OR REGULATIONS**

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements for residential care facilities housing six or less clients and that opt to provide care for bedridden clients.

POLICY STATEMENT OVERVIEW

The broad objectives of these proposed regulations are to act in accordance with the Legislature's intent to provide flexibility that would allow bedridden persons to avoid institutionalization by allowing the bedridden person to remain in or be admitted to a community-based residential care facility.

The specific objective of these proposed regulations is to amend the 2001 CBC and CFC by specifying the fire and life safety requirements that are required for a licensee to receive a fire clearance from the local fire authority permitting bedridden persons to remain in or be admitted to a community-based residential care facility.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

The SFM has determined that there is no other prescribed statute or any specific regulation or class of regulations applicable to bedridden clients in residential care facilities.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or public school districts.

ESTIMATE OF COST OR SAVINGS

- Cost or Savings to any state agency: **NO**
- Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **NO**
- Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- Other nondiscretionary cost or savings imposed on local agencies: **NO**
- Cost or savings in federal funding to the state: **NO**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The SFM has made an initial determination that this proposed regulatory action would not have a significant, statewide adverse economic impact directly

affecting businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code sections 1566.45 and 1568.0832

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The SFM has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON PRIVATE PERSON OR BUSINESS

The SFM has provided a conceptual description of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. See Attachment A—"Conceptual Cost Estimate."

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The SFM has made an initial determination that these proposed regulations to the 2001 CBC and CFC will not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The SFM, through a public process prior to submitting the Finding of Emergency for SB 1896, investigated the following alternatives during the development of the emergency regulations:

1. Automatic Sprinkler system throughout the residential care facility;

The sponsors of the bill and various advocacy organizations for the owners of the facilities met this alternative with great opposition. The main opposition to this alternative was based on the perception that the cost to retrofit an existing residence with an automatic sprinkler system was cost prohibitive and many existing business would not be able to stay in business or that facilities would not consider providing services to bedridden clients because of the increased cost to house a bedridden person was unreasonable.

2. Increased staffing in the residential care facility;

This alternative would require additional statutory language to support an increase in staffing. The sponsors of the bill and various advocacy organizations for the owners of the facilities felt this alternative was unreasonable and not supported by current law.

3. Regulations requiring the local fire authority to develop acceptable alternatives within their jurisdictions;

This alternative was rejected by the local fire authorities that participated in the public process at the initial development of the emergency regulations. The workgroup agreed that the law was seeking a consistent enforcement approach for regulations, building standards relating to bedridden persons in residential care facilities.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

AVAILABILITY OF FINAL STATEMENT OF REASONS

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code § 11346.9. This document will be available from the contact persons named above.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman or
Tom Morrison (Back-up person)
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

**SFM CONTACT PERSONS FOR SUBSTANTIVE
QUESTIONS ON THE PROPOSED
BUILDING STANDARDS**

Specific questions regarding the substantive aspects of the proposed building standards may be addressed to:

CONTACT PERSON

- Leslie R. Haberek
(916) 327-4998
Fax: (916) 445-8459

BACK-UP CONTACT PERSON

- Rodney Slaughter
(916) 445-8454
Fax: (916) 445-8459

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed regulations substantially as proposed in this notice or under mutual agreement with the SFM, modifications may be made that are sufficiently related to the original proposed text and notice of proposed regulatory action. If modifications are made, the full text of the proposed action with the changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). The CBSC will accept written comments on the modified regulations during the 15-day period at the above-mentioned contacts.

ATTACHMENT A

**CONCEPTUAL COST ESTIMATE REGARDING
THE IMPLEMENTATION OF THE SFM's
PROPOSED REGULATIONS IN
RESPONSE TO SENATE BILL 1896**

The table below is an estimate based on the 2001 Edition of the RS MEANS and the 2001 Edition of the Saylor Publications. This estimate applies to the

alternate means of protection as proposed in section 415A of the CBC in lieu of an automatic sprinkler system if a facility provides services for one bedridden client.

PROPOSED CODE SECTION	REQUIRED CODE ITEM	CONCEPTUAL COST OF THE ITEM
415A.3	Direct exit to the exterior 6" x 7" SL/DR w/frame	\$1,000.00
415A.4	DR-SC/WD, Self-closing w/gasket, positive latching-smoke alarm actuated closer	\$1,750.00
415A.7	Multi-station Smoke alarms	\$955.00
Sub-total		\$3,705.00
10% Contingency		\$371.00
Permits & Fees		\$500.00
TOTAL		\$4,576.00

If a facility chooses to provide services for more than one bedridden client, that facility will be required to install an automatic sprinkler system in compliance with section 904.2.10.1 as amended by the SFM.

Based on a typical existing 2000 square foot house (R-3) the estimated cost to install a residential sprinkler system is \$3.25 a square foot.

2000 square feet of area to be sprinklered	@ \$3.25 a square foot	\$6,500.00
Permits & Fees		\$500.00
TOTAL		\$7,000.00

NOTE: These estimates do not include profit and overhead. These estimates do include simple labor cost, but they are not associated with a specific demographic location in which the labor and/or material costs may be at a higher or lower rate.

**TITLE MPP. DEPARTMENT OF
SOCIAL SERVICES**

ORD #1202-28

**ITEM # 1 ABAWD, Food Stamp Voluntary Quit, and
FSET Emergency Regulations**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 17, 2003, as follows:

September 17, 2003
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 17, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief
Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814
TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Manual of Policies and Procedures Division 63 (Food Stamps), Chapter 63-300 (Application Process), Section 63-300 (Application Process); Chapter 63-400 (Eligibility Standards), Section 63-407 (Work Registration Requirements), Section 63-408 (Voluntary Quit), Section 63-410 (Food Stamp Work Requirement

for Able-Bodied Adults Without Dependents (ABAWD), and Section 63-411 (CFAP Work Requirements); and Chapter 63-500 (Eligibility Determinations), Section 63-503 (Determining Household Eligibility and Benefit Levels) and Section 63-505 (Household Responsibilities).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations implement and make specific the following:

- Public Law 107-171, the Farm Security and Rural Investment Act of 2002, which contains the Food Stamp Reauthorization Act of 2002, Sections 4121 and 4401. These sections amended 7 U.S.C. 2015, 7 U.S.C. 2025, and 8 U.S.C. 1612 by making amendments to the employment and training funding requirements, reimbursement of transportation and ancillary expenses, and legal immigrant non-assistance food stamp recipients.
- The regulations issued by the the U.S. Department of Agriculture, Food and Nutrition Service (FNS) in Federal Register (Volume 66, Number 11), dated January 17, 2001, which implemented the able-bodied adult without dependents (ABAWD) work requirements codified at 7 CFR 273.24.
- The regulations issued by the FNS in Federal Register (Volume 67, Number 118), dated June 19, 2002, which revised work provisions for Food Stamp Employment and Training (FSET), disqualification periods, and voluntary quit and reduction of work effort requirements codified at 7 CFR 273.7.

State food stamp, voluntary quit, reduction of work effort, disqualification period, FSET and ABAWD regulations include the following amendments:

- Individuals no longer have to "end" a food stamp disqualification through violation compliance. Following the minimum disqualification period, individuals may be approved for food stamps if otherwise eligible and if in compliance with food stamp work registration requirements.
- The repeal of the \$25 cap for reimbursement of FSET transportation and ancillary costs.
- Applicants, who quit a job within 60 days prior to the date of application, are denied food stamps for one, three or six months, depending on the instance of noncompliance, which begins with the month the individual is determined ineligible. Previously, food stamps were denied for a period of 90 days from the date of quit. The 90-day requirement is repealed.
- Applicants who reduce their work effort to less than 30 hours per week within 60 days prior to the date of application are subject to the same penalties as applicants who voluntarily quit a job.

- Voluntary quit hours per week are changed from 20 hours to 30 hours per week to be consistent with the reduction of work effort hours, which are 30 hours per week.
- Individuals, who are disqualified for voluntarily quitting a job or reducing the number of hours of work to less than 30 per week, may begin to participate in the Food Stamp Program if they apply after the end of the one-, three-, or six-month disqualification period, and are otherwise eligible, and are determined by the CWD to be in compliance with the food stamp work registration requirements.
- Individuals disqualified for voluntarily quitting a job or reducing their work effort, who become exempt during the disqualification period, may reestablish eligibility without having to reapply for food stamps.
- The ABAWD work requirement is considered satisfied for a month in which an individual had good cause for temporarily missing work in a job of at least 80 hours per month.
- The 15 percent ABAWD exemption is listed as one of the exemptions from the ABAWD work requirement.
- To regain eligibility, an ABAWD must always meet the full 80-hour monthly work requirement or participate in workfare unless the individual qualifies for an exemption from the ABAWD work requirement.
- The resources of an ABAWD, who is discontinued due to exhaustion of the three countable months out of the 36-month period, are included in its entirety with the remaining food stamp household members' resources. A pro rata share of the income of the discontinued ABAWD shall be counted as income to the remaining members.
- The restoration of federal food stamp benefits to those immigrants who become legal noncitizens.

COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations impose a mandate on local agencies but not on school districts. There are no reimbursable state-mandated costs because these regulations make only technical and clarifying changes.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific 7 U.S.C. 2015 and 2025, as amended by Section 4121, of the Food Stamp Reauthorization Act of 2002 (P.L. 107-171); 8 U.S.C. 1612, as amended by Section 4401, of the Food Stamp Reauthorization Act of 2002 (P.L. 107-171); Administrative Notices 01-24, 01-36, 01-43, and 03-04; 7 CFR 273.2, .7, .11, .12, .13, and .24; and FNS letters to CDSS dated August 27, 2001 and November 13, 2001 regarding compliance with the food stamp work registration requirements and resumption of food stamp benefits after a disqualification.

CDSS REPRESENTATIVE REGARDING
RULEMAKING PROCESS OF THE
PROPOSED REGULATION

Contact Person: Anthony J. Velasquez
(916) 657-2586

Backup: Maureen M. Miyamura
(916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

**TITLE MPP. DEPARTMENT OF
SOCIAL SERVICES**

ITEM # 4 CalWORKs/Food Stamps Intercept Program

CDSS hereby gives notice of the proposed regulatory action described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 17, 2003, as follows:

September 17, 2003
Office Building #9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 17, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief
Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814
TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Manual of Policies and Procedures, Division 20 (Fraud and Suspected Law Violations), Chapter 20-400 (California Work Opportunity and Responsibility to Kids/Food Stamps (CalWORKs/FS) Intercept Program), Sections 20-400 (California Work Opportunity and Responsibility to Kids/Food Stamps (CalWORKs/FS) Intercept Program), 20-401 (Definitions), 20-402 (General Requirements), 20-403 (Eligibility Requirements), 20-404 (Format), 20-405 (Certification), 20-406 (Intercept Warning Notice to Delinquent Recipients), and 20-409 (Safeguard Procedures)

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Deficit Reduction Act of 1984 (P.L. 98-369, Section 2653) set general criteria for determining which debts are referable under federal tax offset. The California Department of Social Services began the Federal Tax Intercept program in tax year 1992, collecting Food Stamp (FS) overissuances consisting of FS Intentional Program Violations (IPVs) and Inadvertent Household Errors (IHEs) at the Internal Revenue Service (IRS) under special authority of Section 17(b) of the Food Stamp Act. Final Regulations 7 CFR 271 were published on September 1, 1995. The Debt Collection Act of 1982 as amended (P.L. 97-365) authorized federal agencies to offset debts through federal wage, salary and retirement payments, although this match was not initiated by the Food and Nutrition Service (FNS) until 1996. The Debt Collection Improvement Act of 1996

(P.L. 104-134) mandated state participation (which had been optional) in the Treasury Offset Program (TOP). TOP includes the Federal Tax Intercept Program and the Federal Salary Offset Program (FSOP). It also expanded FSOP to include Social Security payments in addition to salaries and benefits.

In current regulations the CalWORKs/FS Intercept Program is an annual process. Counties submit delinquent accounts by May 1 of each year for intercept the following tax season. Any debt which becomes delinquent after May 1 is not submitted for tax intercept until the following May. Counties have the ability to remove or change the dollar amount of these accounts by submitting a file to CDSS by September 1.

As a result of the changes to the federal portion of the CalWORKs/FS Intercept Program, CDSS implemented the Welfare Intercept System (WIS) Enhancement Project. Key changes to the system allow the counties to establish, increase, decrease, or delete accounts as appropriate throughout the year. WIS is updated on a weekly basis with information provided by counties, the Franchise Tax Board, and the Internal Revenue Service. Moving to a continuous system will allow counties to keep account information more current and accurately. The proposed regulations incorporate these changes.

COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations impose a mandate on local agencies but not on school districts. There are no reimbursable state-mandated costs because these regulations make only technical and clarifying changes.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific 7 CFR 273.18; 31 USC 3716; 7 USC 2022; and *Aktar v. Anderson* 58 Cal.App.4th 1166.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez
(916) 657-2586

Backup: Maureen Miyamura
(916) 657-2586

TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0403-08

ITEM # 2 Family Reunification Child Support Referral Requirements

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 17, 2003, as follows:

September 17, 2003
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 17, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief
Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

California Department of Social Services Manual of Policies and Procedures, Division 31 (Child Welfare Services), Chapter 31-200 (Assessment and Case Plan), Section 31-206 (Case Plan Documentation); and Chapter 31-500 (Special Requirements), Section 31-503 (Child Support Referral Requirements)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations amend specific provisions and adopt new language in Division 31, Manual of Policies and Procedures.

In 2001, the legislature enacted AB 1449, Chapter 463, Statutes of 2001, which added Section 17552 to the Family Code relating to child support services. Section three of this legislation stated that the State Department of Social Services shall promulgate regulations to implement the provisions of this act.

Existing regulations require that a foster child's case be referred to the local child support agency. The proposed regulations will require the social worker to make a determination whether making a referral to the local child support agency will pose a barrier to the proposed reunification plan based on the child's best interests.

The proposed regulations will ensure that court dependent foster children and their families can reunite with the maximum support and stability, thereby enhancing the opportunity for family preservation, child safety and well-being.

COST ESTIMATE

1. Costs or Savings to State Agencies: Minor savings.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Minor savings.
4. Federal Funding to State Agencies: Minor savings.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the California Constitution because implementation of the regulations will, if anything, result in minor savings.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**STATEMENT OF POTENTIAL COST IMPACT
ON PRIVATE PERSONS OR BUSINESSES**

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

**ASSESSMENT OF JOB CREATION
OR ELIMINATION**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553 and 10554 and Family Code Section 17552. Subject regulations implement and make specific Family Code Section 17552.

**CDSS REPRESENTATIVE REGARDING
RULEMAKING PROCESS OF THE
PROPOSED REGULATION**

Contact Person: Anthony J. Velasquez
(916) 657-2586

Backup: Everardo Vaca
(916) 657-2586

**TITLE MPP. DEPARTMENT OF
SOCIAL SERVICES**

ORD #0603-13

**NOTICE OF PROPOSED CHANGES
IN REGULATIONS**

ITEM #3 Foster Care Rates—Triennial Financial
Audits and Cost Reimbursement

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 17, 2003, as follows:

September 17, 2003
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 17, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief
Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Chapter 11-400 (AFDC—Foster Care Rates),
Section 11-405 (Fiscal and Financial Audits) and
Section 11-406 (Definitions—Forms)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On or about April 18, 2001, The Department of Social Services received a federal letter directing CDSS to apply the annual financial audit requirements contained in Office of Management and Budget (OMB) Circular A-133 to group homes and foster family agencies.

Pursuant to Single Audit Act, at 31 U.S.C. 7501 et. seq., subrecipients of federal funds who receive \$300,000 in combined federal funds must comply with the annual audit requirements contained in OMB Circular A-133. Under federal law group homes and foster family agencies who receive less than \$300,000 in combined federal funds do not have to meet the annual audit requirements contained in OMB Circular A-133.

AB 444 (Chapter 1022, Statutes of 2002), reduced the frequency of mandatory submissions of financial audit reports for those group homes and foster family agencies who receive less than \$300,000 in annual combined federal funds from every year, to at least once every three years. AB 444 was enacted to conserve State general fund dollars associated with both the reduction of administrative resources required to process and review group home and foster family agency financial audits, and audit reimbursement costs pursuant to Welfare and Institutions Code Section 11466.21.

These regulations reduce the frequency of mandatory submissions of financial audit reports for those group homes and foster family agencies who annually receive less than \$300,000 in combined federal funds from once every year, to at least once every three years.

COST ESTIMATE

1. Costs or Savings to State Agencies: The Department has determined annual savings of \$250,000 to the State.
2. Costs to Local Agencies or School Districts: The Department has determined no additional costs or savings as a result of the filing of these regulations.
3. Nondiscretionary Costs or Savings to Local Agencies: None.

4. Federal Funding to State Agencies: The Department has determined no additional costs or savings as a result of the filing of these regulations.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate on local agencies but not on school districts. There are no state mandated costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no adverse impact on small businesses as a result of filing these regulations because these regulations will decrease audit costs for corporations with combined federal expenditures of less than \$300,000 annually because these corporations will only need to submit financial audits records every three years rather than annually.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553 and 10554. Subject regulations implement and make specific in Welfare and Institutions Code Sections 11466.21(a)(1) and (a)(2) Welfare and Institutions Code Section 11466.21(b)(3), and Welfare and Institutions Code Section 11466.21(c).

**CDSS REPRESENTATIVE REGARDING
RULEMAKING PROCESS OF THE
PROPOSED REGULATION**

Contact Person: Anthony J. Velasquez
(916) 657-2586

Backup: Rick Torres
(916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

<p>GENERAL PUBLIC INTEREST</p>

**DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contracts in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P. O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P. O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians &
Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P. O. Box 925
Middletown, CA 95461

**DEPARTMENT OF
HEALTH SERVICES**

NOTICE OF GENERAL PUBLIC INTEREST

**INTENT TO REVISE MEDI-RATE RATE
SETTING METHODOLOGY FOR
FREE-STANDING NURSING FACILITIES**

This notice is being given to provide information of public interest with respect to the setting of Medi-Cal reimbursement for long term care services. It is the intent of the Department of Health Services (DHS) to

submit an amendment to California's Medicaid State Plan, to revise the methodology for reimbursing Level "A" free-standing nursing facilities effective August 1, 2003. Level "A" nursing facilities provide long-term care services to patients with lower care needs than patients residing in skilled nursing facilities, which are also known as Level "B" facilities.

REVISION TO FREE-STANDING NURSING FACILITIES' RATES METHODOLOGY

DHS intends to submit an amendment to the California Medicaid State Plan to eliminate the special facility category for facilities with 100 or more beds. Currently, only one facility is included in this category, and its rate is tied to the increases in the rates for the other Level "A" facility categories. Under this proposed amendment, a Level "A" free-standing nursing facility, regardless of the number of beds, would have its rate set (depending on its geographical location) using the methodology currently applicable to the "1-99—Beds Los Angeles/Bay Area" or "1-99 Beds—All Other Counties" facility category.

PUBLIC REVIEW

The changes discussed above are available for public review at local county welfare offices throughout the state. In addition, copies of the proposed amendment to California's Medicaid State Plan may be requested and written comments may be sent to Grant Gassman, Chief, Long-Term Care Reimbursement Unit, Department of Health Services, P.O. Box 942732, Mail Stop 4600, Sacramento, CA 95814.

DEPARTMENT OF HEALTH SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

INTENT TO IMPLEMENT CHANGES FOR MEDI-CAL REIMBURSEMENT RATES FOR LONG-TERM CARE SERVICES

This notice is being given to provide information of public interest with respect to the setting of Medi-Cal reimbursement rates for subacute care services provided in long-term care facilities. It is the intent of the Department of Health Services (DHS) to submit an amendment to California's Medicaid State Plan (State Plan), to implement Medi-Cal reimbursement rate changes for the above services, effective August 1, 2003.

REVISION TO SUBACUTE REIMBURSEMENT RATE METHODOLOGY

Currently, the subacute reimbursement rate methodology in the State Plan requires DHS to pay providers the lesser of their projected costs or the prospective

class median. A number of facilities have incurred rate decreases because their projected costs have decreased. For the purpose of preventing these rate decreases, it is the intent of DHS to continue the previous year's reimbursement rate for subacute services provided in long-term care facilities that would otherwise incur a decrease in reimbursement for those services. This proposal will not apply to facilities for which an interim rate has been established pursuant to Section IV.H of Attachment 4.19-D of the State Plan.

PUBLIC REVIEW

The changes discussed above are available for public review at local county welfare offices throughout the state. In addition, copies of the proposed amendment to California's Medicaid State Plan may be requested and written comments may be sent to Grant Gassman, Chief, Long-Term Care Reimbursement Unit, Department of Health Services, P.O. Box 942732, Mail Stop 4600, Sacramento, CA 95814.

DEPARTMENT OF HEALTH SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

INTENDS TO SUBMIT A STATE PLAN AMENDMENT REGARDING THE LONG-TERM CARE REIMBURSEMENT METHODOLOGY

This notice is being given to provide information of public interest with respect to the setting of Medi-Cal reimbursement rates for long-term care (LTC) services. Specifically, for the reimbursement for all categories of nursing facilities (NF) and intermediate care facilities for the developmentally disabled (ICF/DD), it is the intent of the Department of Health Services (DHS) to submit to the federal Centers for Medicare & Medicaid Services an amendment to California's Medicaid State Plan to revise the language pertaining to "add-ons" to the LTC reimbursement rates, with an effective date of August 1, 2003.

REVISION TO REIMBURSEMENT FOR ALL CATEGORIES OF NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

DHS intends to submit an amendment to the California Medicaid State Plan to remove provisions relating to discretionary "add-ons" to the LTC reimbursement rates. The current reimbursement rate methodology requires in the state plan adjustments to be made to the projected costs of facilities to compensate for mandatory changes in state or federal laws and regulations. Also, where appropriate, adjustments can be made to provide reimbursement for

extraordinary costs experienced by the facilities. These adjustments are reflected as an "add-on" for those costs. Under this proposed amendment, the "add-on" costs (associated with "extraordinary costs") will no longer be included as adjustments to the LTC reimbursement rates.

PUBLIC REVIEW

The changes discussed above are available for public review at local county welfare offices throughout the state. In addition, copies of the proposed amendment to California's Medicaid State Plan may be requested and written comments may be sent to Grant Gassman, Chief, Long-Term Care Reimbursement Unit, Department of Health Services, P.O. Box 942732, Mail Stop 4600, Sacramento, CA 95814

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Final Decision to Re-Certify Hazardous Waste Environmental Technology

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has reached a final decision to re-certify the following company's hazardous waste environmental technology:

Applicant: puraDYN Filter Technologies, Inc.
2017 High Ridge Road
Boynton Beach, FL 33426

Technology: puraDYN® Bypass Oil Filtration
System

Section 25200.1.5 of the Health and Safety Code enacted by Assembly Bill 2060 (1993) authorizes DTSC to certify the performance of hazardous waste environmental technologies. The purpose of the certification program is to provide an in-depth, independent review of technologies to facilitate regulatory and end-user acceptance. Only technologies that are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to take any action necessary for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify was published on April 25, 2003 in the California Regulatory Notice Register 2003, Volume No. 17-Z, pages 633-636. The only comment received during the 30-day public review and comment period was a correction of the applicant's current address, incorporated herein. No other comments were received during the comment period. DTSC's certification of the puraDYN® Bypass Oil Filtration System shall become effective thirty days after the publication of this notice.

Additional information supporting DTSC's decision can be found in the July 2003 Cal/EPA report entitled *puraDYN® Bypass Oil Filtration System Technical Evaluation Report*. To obtain a copy of the report contact:

California Environmental Protection Agency
Department of Toxic Substances Control
Office of Pollution Prevention and
Technology Development
P.O. Box 806
Sacramento, California 95812-0806
Attn.: Mr. Dick Jones (916) 322-3292

A description of the technology, the certification statement, and the certification conditions and limitations for the technology of the company listed above follow.

HAZARDOUS WASTE ENVIRONMENTAL TECHNOLOGIES

FINAL NOTICE OF TECHNOLOGY CERTIFICATION puraDYN® Bypass Oil Filtration System

Technology: puraDYN® Bypass Oil Filtration
System

Manufacturer: puraDYN® Filter
Technologies, Inc.
2017 High Ridge Road
Boynton Beach, FL 33426

Technology Description

The puraDYN® Bypass Oil Filtration System was designed to extend oil drain intervals by continuously filtering engine oil. The bypass system filters a portion

of the total oil flow to a greater degree than the full-flow filters typically found on vehicles. The puraDYN® system consists of a replaceable filter element housed in a metal canister. The canister is mounted on the vehicle frame, above the engine oil sump. The oil inlet to the canister is connected to the engine's oil pressure sending unit or oil galley. A stainless steel electric heating element is wired to the vehicle's electrical system, and the clean oil return line is connected to the oil sump.

Although engine oil is fed to the canister inlet by engine oil pressure, a metering jet is used to restrict the flow rate to six gallons per hour. The oil passes through a filter disk, and then through a long-strand cotton disposable filter element with a layer of time-released additives, effectively removing particles larger than one micron while replenishing lost or consumed oil additives. Filtered oil then flows over a heated diffuser plate located in the evaporation chamber. Fuel, water and coolant are evaporated at 195 degrees Fahrenheit and are vented to the air cleaner. Purified of particulate matter, fuel, water and coolant, the oil returns by gravity flow through the clean oil return line to the engine oil sump.

Certification Basis

The purpose of this puraDYN® re-certification was to re-evaluate and reconfirm the conclusion of the original 1994 certification and the 1998 re-certification. The 1994 and 1998 reports certified that by extending oil change intervals, the puraDYN® Bypass Oil Filtration System extends the useful life of the oil and reduces the generation of waste oil without adversely affecting engine wear or performance. For this re-certification, the puraDYN® system was re-evaluated using comments and data collected from current users, and through oil sampling conducted by DTSC on a variety of current applications.

DTSC staff contacted puraDYN® distributors who provided DTSC with thirty-five current puraDYN® users. These users were asked for their comments and oil analysis data. Eighteen users provided comments and eight sets of oil analysis data were received. DTSC was able to gauge customer satisfaction with the puraDYN® system from these comments. Oil analysis data provided by the users was reviewed to identify contaminants and characterize the overall oil quality. Data was received for various types of vehicles, including pick-up trucks, large semi trucks, dump trucks, buses, and boats.

Oil samples were also collected by DTSC to provide independent analyses of oil conditions on a variety of current puraDYN® applications. DTSC was able to collect oil samples for independent analysis from a cement truck, a bus, two police boat engines, and a rail yard switch engine.

Additionally, DTSC relied on the previous certification reports as an important foundation for this re-certification. The 1998 re-certification report (Appendix C) includes extensive certification data and numerous customer testimonials and oil analysis data, which are reviewed and summarized in this evaluation. The 1998 report also includes vendor supplied information, guidelines on the extended use of engine oil, and results of a state-sponsored demonstration project using 22 trucks and 13 buses.

Certification Statement

The puraDYN® Bypass Oil Filtration System is certified by DTSC as a Pollution Prevention technology when installed, operated, monitored, and maintained according to puraDYN®'s standards and specifications. This pollution prevention certification is specific to engine oil usage and used oil generation. The puraDYN® Bypass Oil Filtration System has been shown to be an effective means of extending engine oil change intervals by aiding in the removal of particulate matter, water, coolant, and fuel. Extended drain intervals reduce the:

- 1) use of new oil;
- 2) generation of used oil; and
- 3) potential of spills while draining and handling used oil.

The puraDYN® Bypass Oil Filtration System maintains the following engine oil properties within acceptable limits for continued use if properly operated, monitored, and maintained: viscosity and solids content, water, coolant, fuel, wear metals, and oil additives. The Bypass Oil Filtration System is not expected to maintain these within acceptable limits if major system failures occur, such as: leaks of coolant into the crankcase, leaks of fuel into the crankcase, oil cooler leaks, etc.

Engine oil drain cycles vary according to engine type, fuel quality, oil type, oil consumption rate, work environment, and engine loading. Extended oil drain cycles rely on elimination of harmful contaminants. Oil analysis is the most essential tool in determining maximum drain intervals and predicting forthcoming engine maintenance needs.

DTSC finds that the manufacturer's product or equipment can achieve performance levels as described in the certification. This finding is based on a review of additional data collected over four years from end-users, current and previous data submitted by the manufacturer, and interviews with current and previous end-users. Testing was conducted in 2002, providing oil samples and analysis from four puraDYN® equipped units; in 1994, under the direction of DTSC to confirm data submitted by

puraDYN®; and in 1997, by C.F. Services, for a California Integrated Waste Management Board grant-funded demonstration project.

Limitations of Certification

The Department makes no express or implied warranties as to the performance of puraDYN®'s Bypass Oil Filtration System. Nor does the Department warrant that puraDYN®'s product or equipment is free from any defects in workmanship or material caused by negligence, misuse, accident, or other causes.

The Department does believe, however, that the manufacturer's product or equipment can achieve performance levels set out in this certification when the product or equipment is used in accordance with the manufacturer's specifications. Said belief is based on a review of the data submitted by the manufacturer, interviews with end-users of the equipment, and independent testing conducted under the direction of the Department.

By accepting this certification, the manufacturer assumes, for the duration of this certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal or better than was provided to obtain this certification and agrees to be subject to quality monitoring by the Department pursuant to the law under which this certification is granted.

Regulatory Implications

This certification is for the specific claims, conditions, and limitations outlined in this notice, and is based on DTSC's evaluation of the technology's performance. The certification does not change the regulatory status of the puraDYN® Bypass Oil Filtration System; it should, however, facilitate and encourage the acceptance of this technology for its environmental benefits as a pollution prevention technology.

Use of this technology may be subject to regulation by federal, state, and local agencies. For each specific application, the end-user must ensure compliance with all applicable regulations and standards established by federal, state, and local agencies.

This certification is issued under the California Environmental Technology Certification Program, and is therefore subject to the conditions set out in the regulations, such as the duration of the Certification, monitoring and oversight requirements, and procedures for certification amendments, including decertification.

Duration of Certification

This certification will remain in effect for three years from the date of issuance, unless it is amended or revoked for cause.

PROPOSITION 65

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

PROPOSED ACRYLAMIDE WORK PLAN

Acrylamide is listed under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65; Health and Safety Code Section 25249.5 et seq.) as a chemical that is known to the state to cause cancer. A No Significant Risk Level (NSRL) for acrylamide of 0.2 micrograms/day was established in regulation (Title 22, California Code of Regulations (CCR), Section 12705(c)) in 1990. Recent research has shown that acrylamide can form during the cooking of certain foods at high temperatures. Accordingly, interested parties have asked the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), as the lead agency for the implementation of Proposition 65, to interpret the applicability of Proposition 65 regulations to acrylamide in foods.

On May 12, 2003, OEHHA held a public workshop to explore appropriate Proposition 65 regulatory options regarding acrylamide created by cooking foods. Subsequent to the workshop, OEHHA developed this draft work plan, which reflects input received at the workshop, public health considerations, and the need for clear guidance to facilitate Proposition 65 compliance concerning acrylamide in foods.

CONSULTATION WITH THE CARCINOGEN IDENTIFICATION COMMITTEE (CIC)

The evaluation of acrylamide risks in foods is uniquely challenging due to the chemical's pervasiveness and the degree of exposure to it in the diet. Therefore, OEHHA has assigned a consultative role to the CIC in this draft work plan. This is consistent with the CIC's role as the State's Qualified Experts and its general powers and duties as set forth in Title 22, CCR, Section 12305(a)(5), and noted in Title 22, CCR, Section 12302(e). At the next CIC meeting, scheduled for October 17, 2003, OEHHA will seek input from the CIC on this work plan. In addition, with regard to item one of the proposed work plan, OEHHA will ask the CIC for its opinion on updating the NSRL.

Opportunity for public comment on the proposed work plan will be provided at the October 17, 2003, meeting of the CIC.

PROPOSED ACRYLAMIDE WORK PLAN

Because acrylamide is found in a variety of foods and food groups, this proposed work plan outlines four different actions that will provide guidance on the applicability of Proposition 65 to foods. OEHHA proposes to promulgate regulations as follows:

1. Update the NSRL for Acrylamide and Review Data on Foods Causing Exposures Below the Updated NSRL (Regulation). As stated previously, the NSRL for acrylamide (0.2 micrograms per day) was adopted in regulation in 1990. Since its adoption, additional scientific data have been published regarding the cancer dose-response assessment. Pursuant to Title 22, CCR, Section 12705, OEHHA proposes to review these data and adopt an updated NSRL into regulation. OEHHA also proposes to receive and review exposure data in order to identify foods for which normal exposures fall below the revised NSRL, based on exposure scenarios specified in Title 22, CCR, Section 12721.

At this time, OEHHA is asking the CIC to provide a recommendation whether OEHHA should update the existing NSRL for acrylamide, and, if so, the kinds of factors that OEHHA should consider. Information the CIC may take into account in making its recommendation includes: the availability of additional data and analyses on acrylamide cancer risks in humans published in the scientific literature since 1990; carcinogenesis studies in animals; information regarding the effect of different routes of acrylamide exposure on cancer health effects; the role or importance of the chemical matrix in which acrylamide is found; and other data related to the carcinogenicity of acrylamide. The public is also requested at this time to provide comment to OEHHA on these issues in writing and at the October 17, 2003, CIC meeting.

2. Identify Acrylamide Levels in Foods Below the Limit of Detection (Regulation). Certain exposures are considered not to cause an "exposure" for purposes of Proposition 65 unless a listed chemical is detected using the appropriate method of analysis as specified in Title 22, CCR, Section 12901. While a given exposure may appear to exceed the NSRL, it may not constitute an "exposure" for purposes of Proposition 65 unless the method used to detect the chemical complies with the provisions of Section 12901. OEHHA proposes to develop a regulation that specifies the methods of analysis for acrylamide in food that conform with Section 12901, and

the associated food concentrations of acrylamide below the limits of detection for methods of analysis that comply with Section 12901. OEHHA also proposes to receive and review exposure data in order to identify foods for which normal exposures fall below the specified limits of detection, based on exposure scenarios specified in Title 22, CCR, Section 12721.

3. Identify Alternative Acrylamide Exposure Levels for Certain Foods Based on Public Health Considerations (Regulation). For some foods, sound considerations of public health may support alternative regulatory levels for acrylamide exposures that exceed the revised NSRL and the specified limits of detection. For such foods, pursuant to Title 22 CCR, Section 12703(b), OEHHA proposes to develop alternative regulatory levels and develop a regulation listing acrylamide concentrations in such foods deemed to meet the exemption requirements of Proposition 65. In developing such alternative regulatory levels, OEHHA is authorized to take into account public health considerations as prescribed in Section 12703(b).
4. Identify Appropriate Form and Content for Proposition 65 Warnings Required for Foods Due to Acrylamide (Regulation). Some foods may cause acrylamide exposures at levels high enough to require Proposition 65 warnings. OEHHA proposes to develop a regulation identifying "safe harbor" form and content for such warnings similar to other "safe harbor" language specified in Title 22, CCR, Section 12601(b). The goal of any such regulation would be to clarify the appropriate communication in the appropriate context for warning consumers concerning the presence of acrylamide in the food in compliance with Proposition 65 and to forestall the dissemination of indiscriminate, misleading, confusing, or inappropriately alarming warnings.

PUBLIC COMMENT

Written comments on this work plan should be provided in triplicate and submitted to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803
(916) 445-6900

In order to be forwarded to the CIC, written comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5:00 p.m. **Friday, September 26, 2003.** The CIC

meeting on October 17, 2003, will provide an opportunity for interested parties to present oral comments on this draft work plan. The meeting will begin at 10:00 a.m. in the Sierra Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California and will last until all business has been conducted or 5:00 p.m.

RULEMAKING PETITION DECISIONS

BOARD OF PRISON TERMS

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 2

PETITIONER

Gary Eccher's petition, submitted under Government Code section § 11340.6, was received by the Board of Prison Terms (Board) on June 20, 2003.

AUTHORITY

Under authority established in Penal Code (PC) Sections (§§) 3041, 3052 and 5076.2, the Board may prescribe and amend regulations for the administration of parole.

CONTACT PERSON

Please direct any inquiries regarding this action to Lori Manieri, Regulations Coordinator, Board of Prison Terms, by mail at 1515 "K" Street, Sixth Floor, Sacramento, CA 95814, by telephone at (916) 445-5277, by telefax at (916) 322-3475, or by E-mail to: "regcomment@bpt.ca.gov".

AVAILABILITY OF PETITION

The petition for amendment of the regulations is available upon request directed to the Board's contact person.

SUMMARY OF PETITION

The petition requests that the Board repeal an "unwritten rule" which allegedly was applied by the hearing panel at the petitioner's February 26, 2003, parole hearing. At that hearing the panel asked the petitioner why he couldn't have "come up with better parole plans for California." The petitioner answered "like what"? The panel stated, "Like a house with an address with someone that lives there that says you could come live with them." Petitioner states that the

panel's stated requirement, "like a house with an address . . . is not a sanctified regulation since it was not promulgated through the APA [Administrative Procedure Act, Government Code (GC) § 11340 et seq.]." He claims that this "unwritten rule abridges his realistic immunity under § 2402(d)(8)." Further, petitioner cites the prohibition of the 14th Amendment of the U.S. Constitution, as follows: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." Thus, he argues that this "unwritten rule" is unconstitutional and should be repealed. Petitioner indicated that the Board went on to explain that, "a parole agent for your parole plans has to go out and check the address you're going to be at to make sure it exists, to make sure it's in a proper neighborhood." The petitioner objects to this instruction, arguing that: (1) there is no requirement that you need a "house"; (2) there is no requirement that you have to live "with someone" from California; and (3) there is no requirement you need permission to "come live with them."

The petitioner cites CCR § 2402(d), which lists numerous circumstances *tending* to show suitability for parole. CCR § 2402(d)(8), states in part: "Understanding and Plans for the Future. The prisoner has made realistic plans for release *or* has developed marketable skills that can be put to use upon release." [Emphasis added]. Petitioner claims that the operative word in this provision is "or." Since he has developed marketable skills, he argues that factor should weigh in favor of release. Additionally, petitioner claims that he has made realistic plans for future release that are consistent with CCR § 2402(d)(8).

The petitioner further claims that the commissioner at his hearing was incorrect, and that the petitioner's parole plans meet with the Legislative intent of PC § 3003(j). That statute provides that: "[a]n inmate may be paroled to another state pursuant to any other law." Thus, the petitioner argues, he had formulated a "realistic plan for release" which includes a condominium he can share with his parents at a street address in another state. Lastly, the petitioner requests a new parole hearing.

BOARD DECISION

THE BOARD DENIES THE PETITION FOR THE FOLLOWING REASONS

Based upon statements made at petitioner's last parole hearing, petitioner alleges that certain alleged Board policies are illegal and that he should be granted a new hearing. Given that the petition process is designed to provide systemic statewide clarification rather than individual relief, and the fact that the Board does have a discrete administrative appeals process as specified in CCR § 2050 et seq., no individual relief

shall be granted by way of this petition. The Board disagrees with petitioner's interpretations of the law in this area, and denies his request for repeal of the alleged "underground regulations."

The petitioner mischaracterizes the Board regulations. CCR § 2401, providing general considerations for this area, states in part that:

"[T]he panel shall also consider the criteria and guidelines set forth in this article for determining the suitability for parole The terms in this article are guidelines only. The suggested terms serve as a starting point for the board's consideration of each case on an individual basis. The board may establish a term above or below the guidelines when warranted and reasons are stated on the record."

The February 26, 2003, hearing panel in assessing the prisoner's suitability for parole was determining the specificity and feasibility of the parole plans for legal residence and employment. The Board has *not* adopted a policy specifying that a prisoner must have "a house with an address with someone that lives there that says you could come live with them."

Regarding CCR § 2402(d)(8), which states that, "[t]he prisoner has made realistic plans for release *or* has developed marketable skills . . . ," the prisoner's claim that he has in fact developed marketable skills would be "*one* of the circumstances that would tend to show that the prisoner is suitable for release." If it is determined that the prisoner has also "made realistic plans for release," that would be another factor weighing in favor of release. As stated in CCR 2402(d), "The circumstances are set forth as general guidelines; the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the panel." The Board will review this regulation (§ 2402(d)(8)) to determine if it is necessary to make amendments to further clarify this issue.

Lastly, the petitioner's reference to PC § 3003(j) stating that: "An inmate may be paroled to another state" is reserved for states that participate in the Interstate Corrections Compact specified in PC §§ 11190 through 11198. Normally, the state in which the prisoner wishes to parole, will consider receiving the prisoner once he or she has been granted a parole date. Therefore, the prisoner wishing to parole to another state must have dual parole plans. In addition to specific plans for the other state, he must also have sufficiently definite parole plans for the county of commitment that meet with Board specifications.

The Board denies the petition for the reasons stated above.

BOARD OF PRISON TERMS

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 2

PETITIONER

Miguel Martin's petition was received by the Board of Prison Terms (Board) on June 20, 2003.

AUTHORITY

Under authority established in Penal Code (PC) Sections (§§) 3041, 3052 and 5076.2, the Board may prescribe and amend regulations for the administration of parole.

CONTACT PERSON

Please direct any inquiries regarding this action to Lori Manieri, Regulations Coordinator, Board of Prison Terms, by mail at 1515 "K" Street, Sixth Floor, Sacramento, CA 95814, by telephone at (916) 445-5277, by telefax at (916) 322-3475, or by E-mail to: "regcomment@bpt.ca.gov".

AVAILABILITY OF PETITION

The petition for amendment of the regulations is available upon request directed to the Board's contact person.

SUMMARY OF PETITION

The petition submitted to the Board pursuant to Government Code section § 11340.6 challenges the Board's Administrative Directive (AD) No. 01/01, dated February 26, 2001. The petitioner claims that AD 01/01 "abridges his immunity under [the California Code of Regulations (CCR), title 15] § 3268.2 to be free of restraints according to the laws of CDC." This regulation states in part, as follows:

"(a) Mechanical means of physical restraint may be used only under the following circumstances:

- (1) When transporting a person between locations.
- (2) When a person's history, present behavior, apparent emotional state, or other conditions present a reasonable likelihood that he or she may become violent or attempt to escape.
- (3) When directed by medical staff, to prevent a person from attempting suicide or inflicting injury to himself or herself."

Petitioner claims that during two prior Board hearings, he appeared without the use of any restraints because it was not determined that he met the

conditions as specified in CCR § 3268.2(a)(2) above. Since he indicates that there has been no change in his behavior since his last hearing, he argues that there is no factual basis for the application of CCR § 3268.2.

Further petitioner indicates that since AD No. 01/01 has not been adopted as a regulation, it is an underground rule and is unconstitutional pursuant to the California Constitution, Article I § 7(a), stating that no law shall be made “which shall abridge the privileges or immunities of citizens of the United States.” Petitioner also states that it is unconstitutional to apply AD No. 01/01 to all prisoners as a blanket policy because the AD calls for individualized consideration.

BOARD DECISION

THE BOARD DENIES YOUR PETITION FOR THE FOLLOWING REASONS

Petitioner’s allegations, (1) that he does not meet any of the circumstances listed in CCR § 3268.2(a), and (2) that he had appeared before the Board on two prior occasions without the use of restraints, are not matters that should be addressed by means of a petition. The petition process is designed to provide systemic statewide clarification rather than individual relief. Further, the Board has a discrete administrative appeals’ process as specified in CCR § 2050 et seq. Lastly, petitioner notes that his next parole hearing is scheduled for July 11, 2003. Petitioner and his attorney have an opportunity to raise that personal issue at the hearing. Thus, no individual relief shall be granted by way of this petition.

The Board’s restraint policy was written to be consistent with title 15, CCR, § 3268.2 which is a regulation adopted by the California Department of Corrections (CDC). As stated in AD No. 01-01, this policy developed between the Board and CDC remains in effect “with the exception of revised procedures for inmates/parolees who communicate via sign language . . .” due to a permanent injunction issued on December 23, 1999, in *Armstrong v. Davis*, Case No. C 94-02307 CW. The permanent injunction required that the Board provide reasonable accommodations to prisoners, i.e., limitations of hand restraints for prisoners whose primary means of communication requires free use of their hands [American Sign Language]. The permanent injunction states in part, as follows:

“[h]earing impaired prisoners and parolees who need sign language interpreters shall not have their hands and arms restrained in any way during the hearing, unless a written determination is made on an individualized basis that the prisoner or parolee would pose a direct threat if unrestrained”

Since this is an order of the court, it is not necessary for the Board to restate this language in a regulation. The main purpose of AD No. 01-01 is to provide “instructions to staff” regarding the use of restraints at Board hearings. These instructions are matters that relate to the “internal management” of the state agency. As such, G.C. § 11340.9 exempts them from the general agency rulemaking requirements. Further, as stated in AD 01/01, CDC staff “or [an] authorized designee shall determine *which* prisoners require restraint. Therefore, the Board does not adhere to a “blanket policy” when determining which prisoners/parolees will require restraints. Again, if the petitioner has an individual complaint as to whether he is required to use restraints, this should be addressed through the appeals’ process outlined in CCR § 2050 et seq., or at the parole hearing.

For the reasons stated above, the Board denies the petition.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF EDUCATION

Alternate Schools Accountability Model (ASAM)

This emergency action defines terms and establishes standards and procedures for the administration of tests known as pre-post assessments at schools registered in a program known as the alternative schools accountability model.

Title 5

California Code of Regulations

ADOPT : 1068-1074

Filed 07/21/03

Effective 07/21/03

Agency Contact: Debra Strain (916) 319-0641

BOARD OF EQUALIZATION

Eyeglasses and Other Ophthalmic Materials

This regulatory action adds “clip-on sunglasses” as being subject to sales tax when furnished by a physician and surgeon or optometrist pursuant to a prescription under certain circumstances.

Title 18
California Code of Regulations
AMEND : 1592
Filed 07/18/03
Effective 08/17/03
Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF PILOT COMMISSIONERS

Training Program Eligibility List

This action specifies the procedure for eligible applicants to be notified of and accept or decline admission to the Board's training program.

Title 7
California Code of Regulations
AMEND : 213(i)
Filed 07/23/03
Effective 08/22/03
Agency Contact:
Captain Patrick A. Moloney (415) 397-2253

BOARD OF PSYCHOLOGY

Continuing Education Exemptions and Exceptions

The regulatory action deals with continuing education exemptions and exceptions.

Title 16
California Code of Regulations
AMEND : 1397.62
Filed 07/21/03
Effective 08/20/03
Agency Contact: Kathy Bradbury (916) 263-0712

**COMMISSION ON PEACE OFFICER
STANDARDS AND TRAINING**

Academy Instructor/Specialized Instructor Programs

This rulemaking action establishes the Academy Instructor Certification Program as a voluntary program for POST Regular Basic Course academies, establishes requirements for the Academy Instructor Certification Course, establishes minimum content requirements for academy staff courses, and revises minimum training standards for instructors of POST certified specialized subjects and revises minimum content requirements for instructor courses.

Title 11
California Code of Regulations
ADOPT : 1009, 1083 AMEND : 1001, 1070, 1071, 1082
Filed 07/21/03
Effective 08/20/03
Agency Contact: Leah Cherry (916) 227-3891

**COMMISSION ON TEACHER CREDENTIALING
Allowance of Grace Period to Credential Candidates**

In this regulatory action, the California Commission on Teacher Credentialing implements Education Code section 44252.1, providing for a "grace period" for credential candidates enrolled in specified

Commission-accredited preparation programs to complete requirements without the applicability of new or amended program requirements.

Title 5
California Code of Regulations
ADOPT : 80473, 80473.1
Filed 07/18/03
Effective 08/17/03
Agency Contact:
Raquel Rodriguez (916) 323-7093

DENTAL BOARD OF CALIFORNIA

Fees

This rulemaking sets forth the fee for issuance of a license to a person who is currently licensed to practice dentistry in another state.

Title 16
California Code of Regulations
AMEND : 1021
Filed 07/17/03
Effective 08/16/03
Agency Contact: Georgetta Coleman

DEPARTMENT OF CORPORATIONS

Internet Transactions by Internet Escrow Agents :

This action updates the escrow regulations to maintain consistency with the relevant statutes that have been changed to recognize the importance of allowing Internet escrow transactions to occur, and regulating these activities for the protection of members of the public who may use the services of escrow agents.

Title 10
California Code of Regulations
ADOPT : 1709.1, 1717.2, 1730.1, 1737.1, 1737.2, 1738.6 AMEND : 1710, 1717.2, 1726, 1730, 1732.2, 1737, 1737.1, 1737.3, 1738, 1738.2, 1738.3, 1738.5, 1740.1, 1740.4, 1741.1
Filed 07/21/03
Effective 07/21/03
Agency Contact: Kathy Womack (916) 322-3553

DEPARTMENT OF HEALTH SERVICES

Requirements for the Use of X-ray in Mammography

This action is the Certificate of Compliance making permanent the prior emergency adoption of the State of California's regulatory framework for implementation of the federal Mammography Quality Assurance Act of 1992, the Mammography Quality Reauthorization Act of 1998, and associated federal regulations.

Title 17
California Code of Regulations
ADOPT : 30315.10, 30315.20, 30315.22, 30315.23, 30315.24, 30315.33, 30315.34, 30315.35, 30315.36, 30315.50, 30315.51, 30315.52, 30315.60, 30316, 30316.10, 30316.20, 30316.22, 30316.30, 30316.40, 30316.50, 30316.60,

30316.61, 30317, 30317.10, 30317.20, 303
Filed 07/18/03
Effective 07/18/03
Agency Contact:
Charles E. Smith (916) 657-0730

DEPARTMENT OF HEALTH SERVICES
Authorization of Prosthetic & Orthotic Appliances

This emergency regulatory action decreases the amount of fraudulent billing in the category of prosthetic and orthotic (P&O) appliance by increasing the time frame in which costs can accumulate that have not gone through the prior authorization process. These emergency regulations also ensure appropriate access to P&O appliances but allow for adequate utilization review and determination of medical necessity. These regulations are exempt from review by OAL pursuant to Section 78, Chapter 146, Statutes of 1999.

Title 22
California Code of Regulations
AMEND : 51315, 51515
Filed 07/17/03
Effective 07/17/03
Agency Contact: Marylyn Willis (916) 657-3174

DEPARTMENT OF INSURANCE
Residential Property Insurance Rating & Underwriting

The emergency regulatory action deals with the consideration of losses and loss exposure in residential property insurance rating and underwriting. (Department of Insurance Number ER 03030135.)

Title 10
California Code of Regulations
ADOPT : 2361
Filed 07/21/03
Effective 07/21/03
Agency Contact:
Donald P. Hilla (415) 538-4108

DEPARTMENT OF MANAGED HEALTH CARE
Conflict of Interest Code Amendments

This is a Conflict of Interest Code regulation that is being submitted to OAL for filing with the Secretary of State and printing in the California Code of Regulations only. The action has previously been approved by the Fair Political Practices Commission.

Title 28
California Code of Regulations
AMEND : 1000
Filed 07/21/03
Effective 08/20/03
Agency Contact:
Lyn Amor Macaraeg (916) 322-9727

DEPARTMENT OF MOTOR VEHICLES
Driver License and Driver Licenses

This is an editorial, nonsubstantive action consolidating two articles into one by repealing an extraneous article heading and amending the remaining article heading. The change is editorial and nonsubstantive.

Title 13
California Code of Regulations
AMEND : 25.01
Filed 07/23/03
Effective 08/22/03
Agency Contact: John Urakawa (916) 657-9927

DEPARTMENT OF MOTOR VEHICLES
Registration Services

This regulatory action deals with the procedures and forms for applying for a registration service occupational license and conducting a registration service business, including provisions relating to registration service employees.

Title 13
California Code of Regulations
AMEND : 330.02, 330.06, 330.20, 330.32, 330.42, 330.44, 330.46, 330.48
Filed 07/18/03
Effective 08/17/03
Agency Contact: Ann Myrick (916) 657-8857

DEPARTMENT OF SOCIAL SERVICES
Child Welfare Services Provisions of AB 1695

This Certificate of Compliance implements recent legislation which exempts from the California Community Care Facilities Act, approved homes of relatives and nonrelative extended family members when children are placed by the juvenile court.

Title MPP
California Code of Regulations
AMEND : 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420, 31-440, 31-445
Filed 07/22/03
Effective 07/22/03
Agency Contact:
Anthony J. Velasquez (916) 657-2586

EMPLOYMENT DEVELOPMENT DEPARTMENT
Unemployment Insurance Identity Verification

Recent instances of compromised employer records containing employee information have created the potential for large scale unemployment insurance fraud in California. Current regulatory language limits instances in which the Department can require a claimant to provide additional information needed to establish his/her identity. This emergency regulatory action adds identification procedures and authorizes the Department to act on credible information from a

variety of sources to investigate potential fraud and stop benefit payments to individuals who are not the true owner of the identity.

Title 22

California Code of Regulations

ADOPT : 1326-3 AMEND : 1251-1, 1253(a)-1, 1326-2, 1326-4, 1326-5, 1326-6

Filed 07/21/03

Effective 07/21/03

Agency Contact: Laura Colozzi (916) 654-7712

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Storage

The Department of Industrial Relations, Occupational Safety and Health Standards Board is correcting the term "inserting" to read "inerting" which can be found in Reg. 76, No.29. They are also updating a reference to the National Fire Protection Association Standard, "Fire and Explosion Prevention, NFPA No. 69-1972" to "Standard on Explosion Prevention Systems, NFPA No. 69-2002."

Title 8

California Code of Regulations

AMEND : 5557

Filed 07/21/03

Effective 08/20/03

Agency Contact: Marley Hart (916) 274-5721

RESOURCES AGENCY

California Environmental Quality Act

The Resources Agency is repealing sections 15064(h), 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(4), 15152(f)(3)(C), and 15378(b)(5), title 14, California Code of Regulations, pursuant to the court order found in Communities for a Better Environment v. California Resources Agency Superior Court Case No. 00CS00300 (order dated May16, 2003).

Title 14

California Code of Regulations

AMEND : 15053, 15064, 15092, 15112, 15130, 15152, 15378, and Appendix E

Filed 07/22/03

Effective 07/22/03

Agency Contact: Nathan Goedde (916) 653-5481

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

License Status & History Cerification Letter Fee

The regulatory action establishes the fee for issuance of a license status and history certification letter at \$10.00.

Title 16

California Code of Regulations

AMEND : 1399.157

Filed 07/23/03

Effective 08/22/03

Agency Contact:

Annemarie Del Mugnaio (916) 263-2666

STRUCTURAL PEST CONTROL BOARD

Citations and Fines

The Structural Pest Control Board is adding a title "Citations and Fines" to title 16, California Code of Regulations, section 1920.

Title 16

California Code of Regulations

AMEND : 1920

Filed 07/17/03

Effective 08/16/03

Agency Contact:

Delores Coleman (916) 263-2540

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN MARCH 19, 2003
TO JULY 23, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/01/03 AMEND : 1038

05/08/03 REPEAL : 121, 122, 123, 124, 125, 125.5, 126, 127, 128, App. A (Form 1013)

Title 2

07/14/03 AMEND : 649.11

07/14/03 AMEND : 56800

07/14/03 AMEND : Chapter 55, Section 54400

07/07/03 ADOPT : 1859.77.3 AMEND : 1859.2, 1859.77.2

06/19/03 AMEND : 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145

06/16/03 ADOPT : 18530.2

06/13/03 ADOPT : 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND : 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1

06/12/03 ADOPT : 18329.5

06/12/03 AMEND : 1555

06/12/03 AMEND : 1859.77.2
 06/10/03 ADOPT : 18702.5 AMEND : 18702, 18702.1
 06/04/03 ADOPT : 649.23, 649.24, 649.25
 05/08/03 AMEND : 2970
 05/07/03 ADOPT : 471.1 AMEND : 470, 470.1, 471, 472, 17502, 17520
 05/07/03 AMEND : 547.80, 17030, 17111, 17112, 17151 REPEAL : 547.81, 17434
 05/01/03 AMEND : 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153
 04/28/03 AMEND : 1897
 04/21/03 ADOPT : 1185.02, 1186 AMEND : 1181.1, 1183, 1183.01, 1185, 1185.01, 1185.02, 1185.1, Article 6 title. REPEAL : 1185.2, 1186, 1186.1, 1186.2, 1186.3, 1188.5
 04/10/03 AMEND : 18313
 04/09/03 ADOPT : 18550.1 AMEND : 18225.7
 04/04/03 AMEND : 599.885
 04/03/03 AMEND : 599.515
 04/03/03 ADOPT : 23000, 23100, 23100, 23200, 23300
 04/01/03 AMEND : 52.4
 03/27/03 ADOPT : 18754
 03/24/03 AMEND : 321

Title 3

07/10/03 AMEND : 3700(c)
 07/08/03 AMEND : 3700(c)
 07/03/03 ADOPT : 755, 755.1, 755.2, 755.3, 755.4, 755.5, 755.6, 756, 756.1, 756.2, 756.3, 757, 758, 758.1, 759 AMEND : 753.2 REPEAL : 757, 759, 759.1, 759.2, 759.3, 759.4, 759.5
 06/26/03 AMEND : 3417(b)
 06/12/03 AMEND : 3423(b)
 06/03/03 AMEND : 3417
 06/02/03 REPEAL : 796
 05/28/03 ADOPT : 1392.12
 05/22/03 AMEND : 6860
 05/19/03 ADOPT : 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND : 6000 REPEAL : 6450, 6450.1, 6450.2, 6450.3, 6784
 05/05/03 ADOPT : 1310, 1310.1, 1310.2, 1310.3
 04/24/03 AMEND : 6000, 6710
 04/21/03 AMEND : 3417(b)
 04/21/03 AMEND : 3423(b)
 04/15/03 AMEND : 3423(b)
 04/08/03 ADOPT : 760, 760.1, 760.2, 760.3, 760.4, 760.5, 760.6, 760.7, 760.9 REPEAL : 760, 765
 04/07/03 AMEND : 3417(b)
 04/03/03 AMEND : 300(c)
 04/01/03 AMEND : 3417(b)

03/26/03 ADOPT : 797
 03/20/03 AMEND : 3700(c)

Title 4

07/14/03 ADOPT : 10151, 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162
 06/26/03 AMEND : 12100, 12101, 12104, 12105, 12120, 12122, 12124, 12126, 12128, 12130, 12132, 12140, 12142
 06/16/03 ADOPT : 12370
 05/22/03 ADOPT : 12300, 12301, 12302, 12304, 12305, 12306, 12307, 12308, 12309, 12310 AMEND : 12301, 12303, 12309
 04/09/03 AMEND : 1467

Title 5

07/21/03 ADOPT : 1068-1074
 07/18/03 ADOPT : 80473, 80473.1
 07/03/03 AMEND : 51023.5
 06/20/03 ADOPT : 13075
 06/16/03 ADOPT : 9531, 9532
 05/15/03 ADOPT : 24000, 24001, 24002, 24003, 24004, 24005, 24006, 24007, 24008, 24009
 05/01/03 ADOPT : 1218.5 AMEND : 1200, 1204, 1209, 1211, 1212, 1215, 1216, 1217, 1217.5, 1219, 1219.5, 1220, 1225
 04/21/03 ADOPT : 11990
 04/15/03 AMEND : 18106
 04/14/03 AMEND : 11510, 11512.5(a)(11), 11517 REPEAL : 11510(j)
 04/07/03 ADOPT : 80020.1
 04/03/03 ADOPT : 11971, 11972, 11973, 11974, 11975, 11976, 11977, 11978, 11979, 11980

Title 7

07/23/03 AMEND : 213(i)
 06/03/03 AMEND : 201, 202, 203, 204, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222

Title 8

07/21/03 AMEND : 5557
 07/11/03 AMEND : 1504, 1637
 07/11/03 ADOPT : 5248, 5252.1, 5253.1, 5298.1, 5307, 5308 AMEND : 1504, 5236, 5237, 5238, 5239, 5240, 5241, 5242, 5243, 5244, 5245, 5246, 5247, 5251, 5252, 5253, 5254, 5256, 5257, 5258, 5262, 5267, 5268, 5269, 5270, 5276, 5277, 5278, 5279, 5280, 5291, 5292, 5293,
 07/03/03 AMEND : 1635, 1710
 07/03/03 ADOPT : 5006.1 AMEND : 5006
 06/26/03 AMEND : 421, 422, 422.1, 423, 424.1, 424.2, 424.3, 424.4, 425.1, 425.2, 426, 427.1, 427.2, 427.3, 427.4, 428

06/12/03 ADOPT : 3195. 3195.2, 3195.3, 3195.4
3195.5, 3195.6, 3195.7, 3195.8, 3195.9,
3195.10, 3195.11, 3195.12, 3195.13,
3195.14
06/09/03 AMEND : 344.30
06/02/03 AMEND : 4821
05/30/03 ADOPT : 15220, 15220.1, 15220.2,
15220.3, 15220.4, 15220.5, 15220.6,
15220.7, 15220.8 AMEND : 15201,
15210, 15210.1, 15210.2, 15216, 15430
05/29/03 AMEND : 5161, 5164
05/27/03 AMEND : 5214
05/20/03 AMEND : 9785, 9785.2, 9785.3, 9786,
9787
05/07/03 ADOPT : 20400, 20401, 20402, 20403,
20404, 20405, 20406, 20407, 20408,
20450
05/01/03 AMEND : 10106.1, 10107.1, 10111.2
05/01/03 AMEND : 10122, 10133.15, 10133.16
04/09/03 AMEND : 15210
04/07/03 AMEND : 15251
03/26/03 AMEND : 3279, 3280

Title 9

06/19/03 ADOPT : 1840.112 AMEND : 1830.215
06/05/03 ADOPT : 880, 881, 882, 883, 884, 885,
886, 890, 891, 892
05/20/03 ADOPT : 7149.1 AMEND : 7174
03/25/03 AMEND : 821

Title 10

07/21/03 ADOPT : 1709.1, 1717.2, 1730.1, 1737.1,
1737.2, 1738.6 AMEND : 1710, 1717.2,
1726, 1730, 1732.2, 1737, 1737.1,
1737.3, 1738, 1738.2, 1738.3, 1738.5,
1740.1, 1740.4, 1741.1
07/21/03 ADOPT : 2361
07/15/03 ADOPT : 2716.1, 2790.1.5, 2805.1.5
07/14/03 ADOPT : 2020, 2021 AMEND : 250.51
07/14/03 AMEND : 2190.05, 2190.7
07/11/03 ADOPT : 2194, 2194.1, 2194.2, 2194.3,
2194.4, 2194.5, 2194.6, 2194.7, 2194.8
07/03/03 AMEND : 2498.2
07/03/03 AMEND : 260.102.14
06/19/03 AMEND : 5.2001
06/10/03 ADOPT : 310.156.3 AMEND : 310.114.1
06/05/03 AMEND : 2695.2
06/03/03 ADOPT : 2615, 2615.1, 2615.2, 2615.3
AMEND : 2698.99.10, 2698.99.11,
2698.99.12, 2698.99.13
06/03/03 AMEND : 2509.40, 2509.41, 2509.42,
2509.43, 2509.44, 2509.45, 2509.46,
2509.47, 2509.48, 2509.49, 2509.50,
2509.51, 2509.52, 2509.53, 2509.54,
2509.55, 2509.56, 2509.57, 2509.58,
2509.59, 2509.60, 2509.61, 2509.62,
2509.63, 2509.64, 2509.65, 2509.66, 250

05/20/03 AMEND : 2699.100, 2699.200,
2699.201, 2699.202, 2699.205, 2699.206,
2699.207, 2699.210, 2699.300, 2699.301,
2699.303, 2699.304, 2699.400
05/06/03 ADOPT : 2498.6
04/29/03 ADOPT : 2192.1, 2192.2, 2192.3, 2192.4,
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,
2192.10, 2192.11, 2192.12, 2192.13 RE-
PEAL : 01-0905-01E, 02-0129-02 EE,
02-0531-04 EE
04/24/03 ADOPT : 2278, 2278.1, 2278.2, 2278.3,
2278.4, 2278.5
04/24/03 ADOPT : 2695.85 AMEND : 2695.1,
2695.2, 2695.3, 2695.4, 2695.5, 2695.6,
2695.7, 2695.8, 2695.9, 2695.10,
2695.11, 2695.12, 2695.14
04/17/03 AMEND : 5002
03/27/03 AMEND : 260.211, 260.211.1
03/20/03 ADOPT : 2187.4
03/20/03 ADOPT : 2698, 9910, 2698.99.11,
2698.99.12, 2698.99.13

Title 11

07/21/03 ADOPT : 1009, 1083 AMEND : 1001,
1070, 1071, 1082
07/08/03 AMEND : 1005
07/03/03 AMEND : 1081
06/26/03 AMEND : 1002
06/06/03 AMEND : 1053
06/02/03 AMEND : 1003
05/05/03 AMEND : 1005
04/07/03 AMEND : 1005, 1052, D-2
04/03/03 ADOPT : 977.52 AMEND : 977.20,
977.43, 977.44, 977.45, 977.50, 977.51

Title 12

05/29/03 AMEND : 3000

Title 13

07/23/03 AMEND : 25.01
07/18/03 AMEND : 330.02, 330.06, 330.20,
330.32, 330.42, 330.44, 330.46, 330.48
06/26/03 AMEND : 181.00
06/23/03 ADOPT : 150.04
06/16/03 ADOPT : 2480
05/12/03 ADOPT : 147.00
05/12/03 ADOPT : 2700, 2701, 2702, 2703, 2704,
2705, 2706, 2707, 2708, 2709, 2710
05/07/03 ADOPT : 82.00
05/06/03 AMEND : 1239
05/01/03 ADOPT : 2273.5 AMEND : 2260, 2261,
2262.6, 2263, 2272, 2273
04/17/03 ADOPT : 157.00
04/17/03 AMEND : 115.07
04/16/03 AMEND : 1956.8
04/14/03 AMEND : 2412(b)

Title 14

07/22/03 AMEND : 15053, 15064, 15092, 15112, 15130, 15152, 15378, and Appendix E
 07/14/03 AMEND : 708
 07/07/03 AMEND : 18464, 18465
 06/30/03 AMEND : 230
 06/26/03 AMEND : 791.7, 870.15, 870.17, 870.19, 870.21,
 06/26/03 AMEND : 1.74
 06/24/03 AMEND : 749.2
 06/24/03 AMEND : 354, 360, 361, 362, 363, 364
 06/23/03 ADOPT : 25050
 06/19/03 AMEND : 7.00
 06/17/03 AMEND : 7.50(b)(91.1)
 06/16/03 AMEND : 122
 06/10/03 AMEND : 601
 06/06/03 AMEND : 852.60.1, 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.4, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3
 06/05/03 ADOPT : 712
 06/02/03 AMEND : 17946, 17949
 05/30/03 ADOPT : 3704.1
 05/28/03 ADOPT : 18456.4, 18460.1.1 AMEND : 18449, 18450, 18451, 18453, 18453.2, 18454, 18455, 18456, 18456.1, 18456.2, 18456.3, 18457, 18458, 18459, 18459.1, 18459.2, 18459.3, 18460.1, 18460.2, 18461, 18462, 18463, 18465 REPEAL : 18452, 18457.1, 18460, 18464
 05/22/03 AMEND : 11303, 11386
 05/05/03 ADOPT : 11021
 05/01/03 AMEND : 27.80
 04/30/03 AMEND : 791.7, 870.15, 870.17, 870.19, 870.21, Form FG OSPR-1972
 04/30/03 AMEND : 6504, 6578.4, 6600.1
 04/28/03 AMEND : 2930
 04/17/03 AMEND : 11945
 04/15/03 ADOPT : 1.39, 1.49, 27.83 AMEND : 27.82
 04/15/03 ADOPT : 3704.1
 04/14/03 ADOPT : 1.92 AMEND : 671, 671.1
 04/08/03 AMEND : 791.7
 04/07/03 ADOPT : 4970.09 AMEND : 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21, 4970.22, 4970.23, 4970.24, 4970.25, 4970.2
 04/04/03 ADOPT : 17211, 17211.1, 17211.2, 17211.3, 17211.4, 17211.5, 17211.6, 17211.7, 17211.8, 17211.9

04/04/03 ADOPT : 17853.0, 17854, 17588.2, 17855.4, 17857.1, 17859.1, 17863.4, 17867.5, 17868.5, 18227 AMEND : 17850, 17852, 17855, 17862, 17862.1, 17863, 17865, 17866, 17867, 17868.1, 17868.2, 17868.3, 17869, 17870, 18103.1
 REPEAL : 17857, 17858, 17859, 17860, 178
 04/01/03 AMEND : 2090, 2105, 2420, 2425, 2530, 2690 and renumber 2690 to 2850
 04/01/03 ADOPT : 17225.710, 17225.717, 1225.720, 17225.725, 17225.750, 17225.755, 17225.760, 17225.770, 17225.795, 17225.800, 17225.820, 18478.5, 18494.5, 18499.1, 18499.2, 18499.3, 18499.4, 18499.5, 18499.6, 18499.7, 18499.8, 18499.9 AMEND : 17225.715, 17350, 173
 03/27/03 AMEND : 708
 03/26/03 AMEND : 150.02, 150.04
 03/26/03 AMEND : 120, 120.3

Title 14, 27

07/10/03 ADOPT : 17225.25, 17380, 17380.1, 17381, 17381.1, 17381.2, 17380.1, 17382, 17383, 17383.1, 17383.2, 17383.3, 17383.4, 17383.5, 17383.6, 17383.7, 17383.8, 17383.9, 17383.10, 17384, 17384.1, 17385, 17386, 18223, 18223.5 AMEND : 18831, 21565 REPEAL : 17225.

Title 15

07/08/03 REPEAL : 3901.7.4, 3901.9.1, 3901.9.4, 3901.17.1, 3901.17.2, 3901.17.3, 3901.17.4, 3901.17.5, 3901.19.1, 3901.19.2, 3901.19.3, 3901.19.4, 3901.19.5, 3901.19.6, 3901.21.3, 3901.35.1, 3901.35.2
 06/24/03 AMEND : 2576, 2578, 2580
 06/23/03 ADOPT : 1018, 1046, 1047, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1120, 1121, 1122, 1123, 1124, 1125, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1160, 1161, 1162, 1163, 1378, AMEND : 1006, 1010, 1302, 1310, 1313, 1314, 1320
 06/17/03 AMEND : 2269.1, 2273, 2308, 2369
 05/27/03 AMEND : 3097
 05/22/03 AMEND : 3170, 3170.1, 3171, 3172, 3173
 05/19/03 AMEND : 4941
 05/06/03 AMEND : 3041.3(b)
 04/15/03 REPEAL : 3901.1, 3901.1.2, 3901.3.1, 3901.5.1, 3901.5.2, 3901.5.3, 3901.5.4, 3901.5.5, 3901.5.6, 3901.7.1, 3901.7.2, 3901.7.3, 3901.9.2, 3901.9.3, 3901.9.5, 3901.9.6, 3901.11.1, 3901.13.1,

3901.13.2, 3901.13.3, 3901.15.1,
3901.15.2, 3901.15.3, 3901.15.4,
04/08/03 AMEND : 3025, 3315

Title 16

07/23/03 AMEND : 1399.157
07/21/03 AMEND : 1397.62
07/17/03 AMEND : 1920
07/17/03 AMEND : 1021
07/07/03 ADOPT : 326
07/07/03 AMEND : 355.1
07/03/03 AMEND : 317
06/26/03 ADOPT : 1993.2, 1993.3 AMEND : 1991
06/19/03 ADOPT : 2474
06/12/03 AMEND : 3351.6, 3366
06/09/03 AMEND : 3303.2, 3340.15, 3340.16,
3340.16.6, 3340.17, 3340.18, 3340.32,
3340.41, 3340.42
06/05/03 ADOPT : 811
06/04/03 AMEND : 3340.42
06/04/03 ADOPT : 475, 476
06/02/03 AMEND : 407
05/27/03 ADOPT : 2317, 2317.1, 2317.2, 2326.5,
2328.1
05/27/03 AMEND : 1845, 1858, 1881
05/22/03 ADOPT : 1073.2
05/15/03 ADOPT : 642
05/05/03 AMEND : 2602, 2603, 2604, 2606, 2610,
2614, 2615, 2616, 2620, 2620.5, 2621,
2623, 2624, 2630, 2630.2, 2630.3, 2649,
2655, 2656
05/02/03 AMEND : 1953
05/01/03 AMEND : 2602, 2615, 2620
04/30/03 ADOPT : 1070.2 AMEND : 1070, 1070.1
04/28/03 AMEND : 3340.1, 3392.1, 3392.2,
3392.3, 3392.5, 3392.6 REPEAL : 3392.4
04/25/03 ADOPT : 1313.01, 1313.02, 1313.03,
1313.04, 1313.05, 1313.06
04/24/03 AMEND : 1320
04/24/03 AMEND : 1444.5
04/21/03 ADOPT : 1399.380, 1399.381, 1399.382,
1399.383, 1399.384, 1399.385, 1399.387,
1399.388, 1399.389, 1399.390 AMEND :
1399.302, 1399.370, 1399.374, 1399.376,
1399.380 REPEAL : 1399.375
04/14/03 AMEND : 109, 111
04/08/03 AMEND : 1017
04/08/03 AMEND : 2070, 2071
04/07/03 AMEND : 1381, 1390, 1397.64
04/07/03 ADOPT : 3504.5

Title 17

07/18/03 ADOPT : 30315.10, 30315.20, 30315.22,
30315.23, 30315.24, 30315.33, 30315.34,
30315.35, 30315.36, 30315.50, 30315.51,
30315.52, 30315.60, 30316, 30316.10,
30316.20, 30316.22, 30316.30, 30316.40,

30316.50, 30316.60, 30316.61, 30317,
30317.10, 30317.20, 303
06/12/03 AMEND : 54342(a)(52)
06/05/03 AMEND : 57332
06/05/03 ADOPT : 70100.1 AMEND : 70100,
70200, Table of Standards
05/27/03 AMEND : 54327, 54327.1, 56002
05/15/03 AMEND : 58420
05/08/03 ADOPT : 10300, 10302, 10305, 10310,
10315, 10317, 10320, 10322, 10325,
10326, 10327, 10328, 10330, 10335,
10337 AMEND : 10325, 10327
04/21/03 ADOPT : 1968.2, 1968.5
04/14/03 ADOPT : 13676 AMEND : 13675

Title 18

07/18/03 AMEND : 1592
07/03/03 AMEND : 94011
06/26/03 ADOPT : 1803.5
05/28/03 ADOPT : 284 AMEND : 281, 282, 283
05/27/03 AMEND : 1553
05/27/03 ADOPT : 1707
04/28/03 ADOPT : 2303, 3020, 3021, 3301, 3302,
3501, 3502, 4105, 4901, 4902 AMEND :
1124, 1177, 1178, 1248, 1271, 1332,
1335, 1422, 1470, 2250, 2255, 2343,
2431, 2432, 2500, 2570, 4026, 4027
REPEAL : 2344, 2345, 2346
04/09/03 AMEND : 24411
03/25/03 ADOPT : 19032

Title 19

04/25/03 AMEND : 2520, 2530, 2540, 2560

Title 20

04/08/03 ADOPT : 1237 AMEND : 1231, 1232,
1768, 1769
04/01/03 AMEND : 1601, 1602, 1603, 1604,
1605.1, 1605.3, 1606, 1607, 1608

Title 22

07/21/03 ADOPT : 1326-3 AMEND : 1251-1,
1253(a)-1, 1326-2, 1326-4, 1326-5,
1326-6
07/17/03 AMEND : 51315, 51515
07/10/03 ADOPT : 66261.111, 66263.32,
66264.78, 66265.78 AMEND : 66264.72,
66265.72 REPEAL : 66262.54, 66264.71,
66264.72, 66265.71, 66265.72, 6627030,
07/01/03 AMEND : 12805
06/26/03 AMEND : 97018, 97041
06/24/03 REPEAL : 51015.1
06/17/03 AMEND : 51516.1
06/12/03 AMEND : 66266.1, 66266.2
06/10/03 AMEND : 66250.1, 66250.2
05/22/03 AMEND : 12204
05/22/03 AMEND : 51510, 51510.1, 51510.2,
51510.3, 51511, 51511.5, 51511.6,
51523.3, 51535, 51535.1, 51544, 54501

05/13/03 AMEND : 64431, 64444, 64445.1, 64468.1, 64468.2, 64468.3
 05/12/03 ADOPT : 119015, 119019, 119045, 119069, 119076, 119191
 05/06/03 AMEND : 1326-12
 05/05/03 ADOPT : 115500, 115510, 115520
 REPEAL : MPP Section 12-223.2 through .22.
 04/29/03 ADOPT : 97170, 97172, 97174, 97176, 97178, 97180, 97182, 97184, 97186, 97188, 97190, 97192, 97194, 97196, 97198
 04/28/03 ADOPT : 4407.1
 04/10/03 ADOPT : 51509
 04/08/03 AMEND : 1256-9, 1253.12-1, 1030(a)-1
 04/04/03 AMEND : 51319, 51507.2, 51515, 51517, 51521
 04/03/03 ADOPT : 64806
 04/01/03 AMEND : 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30
 04/01/03 AMEND : 926-3, 926-4, 926-5
 04/01/03 AMEND : 51215.6
 03/26/03 ADOPT : 69000, 69000.5, 69001, 69002, 69003, 69004, 69005, 69006, 69007, 69008, 69009, 69010, 69011, 69012, 69013
 03/24/03 ADOPT : 110449, 110554, 118020
 AMEND : 110385, 12-229, 12-300, 12-302
 03/20/03 ADOPT : 67391.1

Title 22, MPP

07/14/03 ADOPT : 102416.1 AMEND : 80001, 80019, 80019.1, 80019.2, 80054, 80061, 80065, 80066, 87101, 87219, 87219.1, 87454, 87565, 87566, 87801, 87819, 87819.1, 87854, 87861, 87865, 87866, 101152, 101170, 101170.1, 101170.2, 101195, 101212, 101216, 101217, 102352,
 07/01/03 AMEND : 89372(b), 89387(d)(1)(C), 89572.2(a)(1)
 05/12/03 AMEND : 101218.1, 102419, 102421
 04/09/03 ADOPT : 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND : 87000, 87001, 87005, 87006, 87007, 87009, 87010, 87010.1, 87010.2, 87017, 87018, 87019, 87019.1, 89221, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 8

04/03/03 ADOPT : 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132,

Title 23

07/15/03 ADOPT : 3964
 07/15/03 ADOPT : 3945
 07/01/03 ADOPT : 510, 511, 512, 513, 514, 515, 516, 517
 06/05/03 ADOPT : 3939.1
 06/05/03 ADOPT : 3939
 05/20/03 AMEND : 3939
 04/28/03 ADOPT : 2729, 2729.1
 04/14/03 AMEND : 3955
 04/01/03 AMEND : 648
 04/01/03 AMEND : 2521

Title 25

05/05/03 AMEND : 6932

Title 28

07/21/03 AMEND : 1000
 06/20/03 ADOPT : 1010

Title MPP

07/22/03 AMEND : 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420, 31-440, 31-445
 06/30/03 AMEND : 11-405.2, 11-406(f)
 06/26/03 ADOPT : 47-120, 47-430 AMEND : 40-107, 40-131, 40-181, 42-711, 47-301
 06/19/03 AMEND : 49-020
 05/28/03 ADOPT : 90-200, 90-205, 90-210, 90-215, 90-220
 04/09/03 AMEND : 40-107.14, 40-107.15, 42-301.2, 42-302.1, 42-302.2, 42-0302.3, 44-133.5, 44-133.8, 44-352.1, 88-832, 88-833.1
 04/09/03 AMEND : 19-001, 19-004.412, 19-004.412(a), renumber 19-004.9 to 19-004.42, 19-004.62, 19-005.21, 19-007.1, 20-300.32, 20-300.33
 03/27/03 AMEND : 44-315, 89-201
 03/27/03 AMEND : 40-187, 40-188, 40-190, 63-801
 03/25/03 AMEND : 63-405

